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CODE OF
REGULATIONS**

Title 5. Education

Complete Title

Vol. 6

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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TITLE 5. EDUCATION

NOMENCLATURE CROSS-REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross-Reference Table for the new organizational headings used in this Title.)

OLD HIERARCHY

REVISED HIERARCHY

Part	Division
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Chapter	Subchapter
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Title 5. Education

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TITLE 5. EDUCATION

Division 1. California Department of Education

Chapter 1. General Provisions

Subchapter 1. Citation and Definitions

§ 1. Citation.

NOTE: Authority cited: Section 33031(a), Education Code.

HISTORY

1. New Chapter 1 (§§ 1 and 2) filed 9–23–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
4. Amendment of division heading filed 6–8–2004; operative 6–8–2004 (Register 2004, No. 24).

§ 2. Definitions.

Throughout Part I of this title, unless otherwise indicated by the context:

- (a) "County superintendent" means the county superintendent of schools having jurisdiction.
- (b) "Department" means the State Department of Education.
- (c) "Governing board" means the governing board of a school district maintaining any grade K–12.
- (d) "Grade" includes kindergarten, unless otherwise specified.
- (e) "High school" includes junior high school, four year high school, senior high school, and continuation high school unless a contrary intention appears, but excludes evening high schools, called "adult schools" in this title.
- (1) "Four year high schools" are organized to include grades 9, 10, 11, and 12.
- (2) "Junior high schools" are organized to include grades seven and eight; grades seven, eight, and nine; or grades seven, eight, nine, and ten.
- (3) "Senior high schools" are organized to include grades 10, 11, and 12; or grades 11 and 12.
- (f) "K–12" means kindergarten and grades 1 through 12.
- (g) "Pupil" means a person enrolled in any grade K–12, in an ungraded class, or individual instruction.
- (h) "Regular day class" means a class maintained during the regular school day, as fixed by the governing board of the school district. Classes in special day and evening and summer schools, juvenile hall schools, remedial classes, and classes for the physically handicapped, mentally retarded, severely mentally retarded, educationally handicapped, and mentally gifted are not regular day classes.
- (i) "Regular full-time day school" means a school maintained by a school district during the day, as distinguished from evening or night, for not less than 175 days during the fiscal year and for not less than the minimum school day established by or pursuant to law.
- (j) "School" means a public school maintained for a grade or grades, K–12.
- (k) "Section" means a section of this code, unless some other code or statute is expressly mentioned.
- (l) "State Board" means the State Board of Education.

HISTORY

1. Amendment of subsection (f) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 2. School Sessions

HISTORY

1. Repealer of Chapter 2 (Sections 10 and 11) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 70, No. 9.

Subchapter 3. Flag of the United States

HISTORY

1. Repealer of Chapter 3 (Sections 20 and 21) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 69, No. 39.

Subchapter 4. Affirmative Action Employment Programs

§ 30. Statement of Policy.

It continues to be the policy of the State Board of Education to provide equal opportunity in employment for all persons and to promote the total realization of equal employment opportunity through a continuing affirmative action employment program. It is the intention of the Board to implement that policy and to implement Sections 44100 through 44105 of the Education Code as added by Chapter 1090 of the Statutes of 1977 (S.B. 179).

NOTE: Authority cited for Chapter 4 (Sections 30 and 31): Article 4 (Sections 44100–44105) of Chapter 1, Part 25, Division 3, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 30–36) and new Chapter 4 (Sections 30 and 31) filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20). For prior history, see Registers 77, No. 39; 75, No. 39; 74, No. 16.

§ 31. Development and Implementation of Programs.

Each public education agency will develop and implement an affirmative action employment program for all operating units and at all levels of responsibility within its jurisdiction.

Subchapter 5. Public Records

§ 50. Access to Public Records of the State Department of Education.

(a) Inspection of the original copy of any public record of the State Department of Education (as defined by Government Code Sections 6252(d) and 6254) will be permitted during regular office hours of the State Department of Education, 721 Capitol Mall, Sacramento, California.

(b) Requests to inspect such records should be filed with the Chief Deputy Superintendent of Public Instruction at least five working days prior to the requested inspection date in order to insure availability.

(c) Requests for inspection should be as specific as possible in identifying the records desired.

(d) Original copies of public records shall not be removed from the office of the custodian thereof.

(e) If search by a state employee for the records requested, inspection of the public record will be subject to the payment of the fees required by Section 18473 of this title.

NOTE: Authority cited: Section 33031(a), Education Code; and Section 6253(a), Government Code. Reference: Section 6253(a), Government Code.

HISTORY

1. New Chapter 5 (§§ 50–51) filed 1–23–76; effective thirtieth day thereafter (Register 76, No. 4).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

3. Amendment of NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

§ 51. Obtaining Copies of Public Records.

Copies of public records may be obtained from the custodian thereof through the procedure provided in Section 18471.
NOTE: Authority cited: Section 33031(a), Education Code; and Section 6253(a), Government Code. Reference: Sections 6253(a), 6256 and 6257, Government Code.

HISTORY

1. Amendment of NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

Subchapter 6. Department of Education—Conflict of Interest Code

§ 70. General Provisions.

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Education, except as provided below.

Designated employees shall file statements of economic interests with the agency.

EXCEPTION: As provided in 2 Cal. Code of Regulations Section 18730(b)(1), the definitions contained in the Political Reform Act of 1974 shall apply to the terms used in this Code except that neither the term “investment” nor the term “business entity” shall operate to exclude any private school in California, whether or not such school is operated for profit.

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Sections 87300, et seq., Government Code.

HISTORY

- 1. New chapter 6 (sections 70–78) filed 12–17–76; designated effective 2–1–77. Approved by Fair Political Practices Commission 10–6–76 (Register 76, No. 51).
- 2. Repealer of chapter 6 (sections 70–78) and new chapter 6 (section 70 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
- 3. Amendment filed 3–2–94; operative 4–1–94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 1–25–94 (Register 94, No. 9).
- 4. Amendment of Appendix, list of designated employees, filed 11–8–99; operative 12–8–99. Approved by Fair Political Practices Commission 9–1–99 (Register 99, No. 46).

Appendix

<i>Designated Employees</i>	<i>Disclosure Categories</i>
<i>Headquarters Offices</i>	
All educational classifications at or above the level of Assistant Superintendent	I, II, III
All exempt positions, including those authorized for boards and commissions	I, II, III
All Career Executive Assignment classes	I, II, III
All legal classifications	I, II, III
All professional education classifications	I, II
All field representative classifications in school facilities	I, II, III
Senior Architect	I, II, III
All positions in curriculum frameworks and textbook development at or above the level of Staff Services Analyst	I, II
All Child Nutrition classifications	I, II
All fiscal, management and staff services classifications at or above the level of Staff Services Manager I	II
All supervising data processing or information systems classes	I, II

Designated Employees

All persons in staff services classes where the duties include substantial review of local programs and funding or commodities decisions may be affected	I, II
All Business Services Office classifications at or above the level of Business Service Officer II	II
All accounting classifications at or above the level of Accounting Administrator I	II
All audio–visual classifications at or above the level of Audio–Visual Specialist	II
Departmental Construction and Maintenance Supervisor	II
All contract consultants	*

State Special Schools

Site Superintendent or Director of a Special School or Center	I, II
All education positions designated Supervisory, Managerial, or Excluded	II
All physician positions	II
All Business Manager positions	II
All director of dietetics positions	II
All supervising cook positions	II
All chief of plant operation positions	II

Disclosure Categories:

Category I.

Persons in this category shall report investments, business positions and income to the extent that they know or have reason to know that the business entity in which the investment or business position is held or the source of income is a publisher, manufacturer, or vendor of instructional materials, educational materials, supplies, machines, equipment, food commodities or consulting services offered to educational institutions in the State of California. They shall also report any investments, business positions and income in or from any private school in the State of California.

Category II.

Persons in this category shall report investments, business positions, and income to the extent that they know or have reason to know that the business entity in which the investment or business position is held or the source of income is engaged in the performance of educational, research or professional consulting services, or publishes, manufactures, or sells supplies, books, machines, equipment, food commodities, or other items purchased by the Department.

Category III.

Persons in this category shall report interests in real property in California.

* Contract consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitations:

The Executive Deputy Superintendent may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties, and based upon that description, a statement of the extent of disclosure requirements. The Executive Deputy Superintendent’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Subchapter 7. Plans to Alleviate Racial and Ethnic Segregation of Minority Students

§ 90. Policy.

NOTE: Authority cited: Section 33031, Education Code.

HISTORY

- 1. New chapter 7 (sections 90 through 101) filed 9–16–77; effective thirtieth day thereafter except for section 97 (Register 77, No. 38). For effective date of section 97, see history note of section 97.
- 2. Repealer of section filed 6–28–91 as an emergency; operative 6–28–91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10–28–91 or emergency language will be repealed by operation of law on the following day.
- 3. Certificate of Compliance as to 6–28–91 order transmitted to OAL 10–16–91 and filed 11–7–91 (Register 92, No. 8).

§ 91. Findings and Intentions.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 92. Definitions.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 93. Identification of Segregated Schools.**HISTORY**

1. Amendment of subsection (a) filed 7-18-78; effective thirtieth day thereafter (Register 78, No. 29).
2. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 94. Preparation of District Plans.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 95. Contents of District Plan.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 96. Community Involvement.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 97. Racial and Ethnic Survey.**HISTORY**

1. New section filed 9-16-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 38).
2. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 98. Publication by Governing Board.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 99. Certification by Governing Board.**HISTORY**

1. Amendment filed 7-18-78; effective thirtieth day thereafter (Register 78, No. 29).
2. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 100. Responsibility of the Department.**HISTORY**

1. Amendment of subsection (b) filed 7-18-78; effective thirtieth day thereafter (Register 78, No. 29).
2. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

§ 101. Responsibility of County Superintendent of Schools.**HISTORY**

1. Repealer of section filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 46). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-28-91 order transmitted to OAL 10-16-91 and filed 11-7-91 (Register 92, No. 8).

Chapter 2. Pupils

Subchapter 1. General Provisions

Article 1. Admission and Exclusion of Pupils

§ 200. Admittance to First Grade from Kindergarten.

A child who has been lawfully admitted to a public school kindergarten in California may be placed in the first grade at the discretion of the administration of a school district if it determines that the child is ready for first grade work.

(a) The governing board shall adopt regulations setting forth the procedures to be followed.

(b) The procedures adopted shall insure that a kindergarten pupil placed in the first grade meets the following minimum criteria:

- (1) The child is at least five years of age.
- (2) The child has attended a public school kindergarten for a long enough time to enable school personnel to evaluate his ability.
- (3) The child is in the upper five percent of his age group in terms of general mental ability.
- (4) The physical development and social maturity of the child are consistent with his advanced mental ability.
- (5) The parent or guardian of the child has filed with the school district a written statement approving placement in the first grade.

NOTE: Authority cited for Article 1: Section 33031 and 33037, Education Code.

HISTORY

1. New Chapter 1 (§§ 200-202, 300-307, 350-353) filed 9-23-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 201. Admission to High School.

The school district maintaining a high school shall admit pupils in accordance with the grade organization of the schools maintained and the maturity and achievement of the pupils as follows:

(a) A pupil shall be admitted to the high school shown if he has completed at least the grade indicated.

*Admitting
Grade*

Grade 6	Completed High School	Junior high school
Grade 8		Four year high school
Grade 9	Senior high school (having grades 10, 11, and 12)	
Grade 10	Senior high school (having grades 11 and 12)	

(b) A pupil may be admitted to a high school who in the judgment of personnel of the district described in Education Code Section 48020 or 48030, as appropriate, is capable of profiting from the instruction offered, regardless of the grade he has completed.

HISTORY

1. Amendment of subsection (b) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 202. Exclusion of Pupils with a Contagious Disease.

A pupil while infected with any contagious or infectious disease may not remain in any public school.

Article 2. Duties of Pupils**§ 300. Duties Generally.**

Every pupil shall attend school punctually and regularly; conform to the regulations of the school; obey promptly all the directions of his teacher and others in authority; observe good order and propriety of deportment; be diligent in study; respectful to his teacher and others in authority; kind and courteous to schoolmates; and refrain entirely from the use of profane and vulgar language.

§ 301. Duty to Refrain from Certain Conduct.**HISTORY**

1. Repealer filed 6-23-76; effective thirtieth day thereafter (Register 76, No. 26).

§ 302. Pupils to Be Neat and Clean on Entering School.

A pupil who goes to school without proper attention having been given to personal cleanliness or neatness of dress, may be sent home to be properly prepared for school, or shall be required to prepare himself for the schoolroom before entering.

§ 303. Duty to Remain at School.

A pupil may not leave the school premises at recess, or at any other time before the regular hour for closing school, except in case of emergency, or with the approval of the principal of the school.

§ 304. Leaving Room at Recess.

Every pupil shall leave the schoolroom at recess unless it would occasion an exposure of health.

§ 305. Pupil Responsible for Care of Property.

A pupil who defaces, damages, or destroys any school property or willfully or negligently injures another pupil or school employee is liable to suspension or expulsion, according to the nature of the offense.

§ 306. Explanation of Absence.

A principal or teacher may require satisfactory explanation from the parent or guardian of a pupil, either in person or by written note, whenever the pupil is absent a part or all of a school day. The explanation shall not be required until the day following.

§ 307. Participation in School Activities Until Departure of Bus.

A pupil for whom the district provides transportation facilities may be required to remain at school to participate in activities approved by the superintendent of schools or by the governing board until the departure of the pupil in the vehicle to which he has been assigned.

Article 3. Privileges of Pupils**§ 350. Fees Not Permitted.**

A pupil enrolled in a school shall not be required to pay any fee, deposit, or other charge not specifically authorized by law.

§ 351. Work or Services Required of Pupils.

A pupil shall not be required to perform any work or services that may be detrimental to his health.

§ 352. Detention During Recess or Noon Intermission.

A pupil shall not be required to remain in school during the intermission at noon, or during any recess.

§ 353. Detention After School.

A pupil shall not be detained in school for disciplinary or other reasons for more than one hour after the close of the maximum school day, except as otherwise provided in Section 307.

NOTE: Specific authority cited for Section 350: Section 5 of Article IX, California Constitution.

Subchapter 2. Records of Pupils**Article 1. Attendance Records and Accounting****§ 400. Attendance Records.**

Records of attendance of every pupil in the public schools shall be kept for the following purposes:

(a) For apportionment of State funds.

(b) To insure general compliance with the compulsory education law, and performance by a pupil of his duty to attend school regularly as provided in Section 300.

NOTE: Authority cited: Section 46000, Education Code.

HISTORY

1. New Article 1 (§§ 400-408) filed 2-24-70; designated effective 7-1-70 (Register 70, No. 9).

2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 401. Forms and Procedures for Recording Attendance.

(a) Elementary school attendance shall be kept in a state school register, as required by Section 44809, except when a central file is maintained as authorized by Education Code Section 44809.

(b) High school attendance (including junior high school) shall be kept on forms approved by the State Department of Education.

(c) In all high schools, except those listed in (d) of this section, each teacher shall be required to submit to the principal, at least once each school day, a report of attendance for each period of the day in which he conducts classes, listing the names of all pupils absent in any period.

(d) In all classes for adults, continuation schools, and classes, and regional occupational centers and programs, attendance shall be reported to the supervising administrator at least once each school month.

NOTE: Authority cited: Sections 44809, 46000, Education Code. Reference: Section 44809, Education Code.

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 402. Attendance That May Be Counted.

For apportionment purposes, attendance of a pupil upon schools or classes maintained by a school district or a county superintendent may be counted when the pupil is present during the time lawfully prescribed for the school or class in which he is enrolled and when such attendance meets the requirements prescribed by Education Code Section 46300. In

addition, if the pupil is enrolled in summer school his attendance may be counted only if the summer school meets the requirements of Education Code Section 12400.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 403. Pupils Enrolled for the Minimum School Day.

Subject to the provisions of Sections 402, 404, and 405, for apportionment purposes a pupil enrolled in a regular day class or a special day class for the minimum school day applicable to him (except pupils whose attendance is recorded by clock hour) is deemed present for the entire school day, unless he is absent for the entire school day prescribed by the local governing board under Education Code Section 46100.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 404. Pupils Whose Attendance Is Reported by Clock Hour.

Subject to the provisions of Sections 402 and 405, a pupil enrolled in a class described in Section 406 is deemed present, and he shall not be counted or recorded as absent for apportionment purposes, unless he is absent the entire clock hour.

§ 405. Actual Attendance Counted.

For apportionment purposes, in a situation described in (a), (b), or (c) of this section, only a pupil's actual attendance upon regular day school or class shall be counted. Such attendance shall be recorded in clock hours.

(a) Admission Charge.

For some period of time during his regularly programmed school day he attends or engages in a school sponsored function or activity for which he pays a fee, an admission, or participation charge, except for fees authorized for adult education (Education Code Sections 52612 and 52613).

(b) Work Experience Class. He is enrolled in a work experience class. In this case, his attendance is the sum of the hours of his actual attendance upon the regular school plus the hours of attendance in the work experience class which meet the requirements of Section 46300 of the Education Code.

(c) Excused from Regular Schools or Class.

Whenever a pupil is excused from a school or class to attend or participate in a function or activity which does not meet the requirements of Section 46300 of the Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 406. Attendance Reported by Clock Hour.

Attendance shall be reported in clock hours for the following:

- (a) Pupils enrolled for less than the minimum school day.
- (b) Pupils in classes for adults wherever held pursuant to the Education Code.
- (c) Pupils enrolled in work experience programs.
- (d) Pupils in continuation education schools or classes.
- (e) Pupils in regional occupational centers or regional occupational programs.
- (f) Pupils in summer schools.
- (g) Physically handicapped pupils.
 - (1) Adults and minors receiving individual instruction in home or hospital.
 - (2) Pupils sixteen years of age or over who are enrolled in an occupational training program, i.e., sheltered workshop, pursuant to Education Code Section 46500.
 - (h) Educationally handicapped minors receiving individual instruction in home or hospital or children's institution pursuant to Education Code Section 46511.

HISTORY

1. Amendment of subsection (g)(1) filed 3-19-71; effective thirtieth day thereafter (Register 71, No. 12).
2. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 407. Attendance Recorded in Minutes.

HISTORY

1. Amendment filed 3-19-71; effective thirtieth day thereafter (Register 71, No. 12).
2. Change without regulatory effect repealing section filed 9-19-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 6).

§ 408. Computation of Attendance for Classes Recorded in Minutes.

HISTORY

1. Amendment filed 3-19-71; effective thirtieth day thereafter (Register 71, No. 12).
2. Change without regulatory effect repealing section filed 9-19-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 6).

§ 409. Deduction of Attendance of Pupils in Remedial Classes Maintained by a County Superintendent.

HISTORY

1. New section filed 6-25-70; effective thirtieth day thereafter (Register 70, No. 26).
2. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Change without regulatory effect repealing section filed 9-19-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 6).

Article 1.1. Record of Verification of Absence Due to Illness and Other Causes

§ 420. Absences Allowable as Attendance.

Absence due to any one or more of the following causes, when verified in accordance with this article, is allowable as attendance in a regular full-time day school as defined in Section 2(i) maintained by a district and in a school or class maintained by a county superintendent of schools:

- (a) Illness.
- (b) Quarantine directed by a county or city health officer.
- (c) Having medical, dental, or optometrical services rendered.
- (d) Attending funeral services of a member of the pupil's immediate family to the extent of not more than one day if the service is conducted in California and not more than three days if the service is conducted outside of California. Members of an immediate family are, for purposes of this subsection, those relationships set out in Education Code Section 45194 except that references therein to "employee" shall be deemed to be references to "pupil."

NOTE: Authority cited for Article 1.1: Section 46000, Education Code.

HISTORY

1. New Article 1.1 (§§ 420 through 424) filed 2-24-70; designated effective 7-1-70 (Register 70, No. 9).
2. Amendment filed 9-20-74; effective thirtieth day thereafter (Register 74, No. 38).
3. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 421. Method of Verification.

(a) Any of the following persons may verify an absence due to illness or quarantine:

- (1) A school or public health nurse.
- (2) An attendance supervisor.
- (3) A physician.
- (4) A principal.
- (5) A teacher.
- (6) Any other qualified employee of a district or of a county superintendent of schools assigned to make such verification.

(b) The verification shall be made in accordance with any reasonable method which establishes the fact that the pupil was actually ill or under quarantine if the method has been approved:

(1) In the case of a school district, by resolution of the governing board entered in its minutes.

(2) In the case of a school or class maintained by a county superintendent of schools, by resolution of the county board of education entered in its minutes.

§ 422. Recording of Absence Due to Illness or Quarantine.

(a) Absence due to illness or quarantine shall, in the first instance, be recorded on attendance accounting forms and in state school registers in the same manner as any other absence is recorded.

(b) After a person authorized to make verification has determined that an absence is due to illness or quarantine, such fact shall be recorded as follows:

(1) If attendance records are kept manually and on the negative basis, the absence entry shall be circled with blue or black ink. If attendance records are kept manually and on the positive basis, an attendance entry shall be made and circled with blue or black ink. Circled entries may be recorded as attendance in the total attendance column.

(2) If attendance records are made by machine, an appropriate symbol shall be used to identify verified absences due to illness or quarantine on monthly attendance summary forms. Absences so identified may be recorded as attendance in the total attendance column.

§ 423. Prolonged Illness.

A pupil who contracts an illness of a prolonged nature or who has been a victim of an accident which will prevent attendance for a prolonged period shall be counted as absent due to illness only until such time as he is able and starts to receive instruction in home, hospital, or sanatorium, or is given instruction by other means. No absence due to illness shall be credited as attendance beyond the current school year.

§ 424. Prior Registration and Attendance Required.

Absence due to illness or quarantine shall not be credited for a pupil prior to his having been registered and in attendance upon a school or class.

Article 2. Emergency Average Daily Attendance*

§ 428. Material Decrease.

A decrease in the average daily attendance is material for the purposes of Education Code Section 46392 when at least ten percent of the students who would normally attend a school do not attend on any one day. Any decrease in attendance at a necessary small school, as defined in Education Code Section 42283 is material for the same purpose. The average daily attendance of the school during either the month of May or the month of October of the same school year, at the District's option, shall be used to determine the normal attendance of a school for purposes of this section.

NOTE: Authority cited: Sections 33112 (a) and 46392, Education Code. Reference: Section 46392, Education Code.

HISTORY

1. New Article 2 (Section 428) filed 2-24-70 as an emergency; designated effective 7-1-70 (Register 70, No. 9).
2. Certificate of Compliance filed 4-15-70 (Register 70, No. 16).
3. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. New subsections (d) and (e) filed 12-6-77; effective thirtieth day thereafter (Register 77, No. 50).
5. Amendment filed 11-16-89; operative 12-16-89 (Register 89, No. 46).

*See Sections 15100-15106 for decrease in A.D.A. due to excessive ratio of pupils to classroom teachers.

§ 429. Inability to Maintain Schools for the Prescribed Minimum Fiscal Year.

NOTE: Authority cited: Sections 33112(a) and 41422, Education Code. Reference: Sections 41422 and 46392, Education Code.

HISTORY

1. New section filed 12-6-77; effective thirtieth day thereafter (Register 77, No. 50).
2. Repealer filed 11-16-89; operative 12-16-89 (Register 89, No. 46).

Article 3. Individual Pupil Records

§ 430. Definition.

- (a) "Pupil" means a person who is or was enrolled in a school.
- (b) "Adult Pupil" means a person who is or was enrolled in school and who is at least 18 years of age.
- (c) "Eligible Pupil" means a person 16 years or older or who has completed Grade 10.
- (d) "Pupil Record" means information relative to an individual pupil gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record.

(1) "Mandatory Permanent Pupil Records" are those records which are maintained in perpetuity and which schools have been directed to compile by California statute, regulation, or authorized administrative directive.

(2) "Mandatory Interim Pupil Records" are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per California statute, regulation, or authorized administrative directive.

(3) "Permitted Pupil Records" are those records having clear importance only to the current educational process of the student.

(e) "District" means a local school district or county or state operated special school or private or out-of-state school for which California tax revenues pay all or part of the tuition.

NOTE: Authority cited for Article 3: Section 33031 and 49062, Education Code and 20 U.S.C. § 1232(g). Reference: Section 49062, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 430-432) and new Article 3 (Sections 430-438) filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 431. Responsibilities of Local Governing Boards.

(a) Local governing boards shall designate a certificated employee as custodian of records. Such employee shall be charged with districtwide responsibility for implementing board policies relating to pupil records.

(b) The principal of each school or a certificated designee shall be responsible for the implementation of board and district policies relating to the pupil records maintained in that school.

(c) Each district shall establish written policies and procedures for pupil records which implement Education Code Section 49060, and Title 5 regulations relating to pupil records. Such procedures and policies shall:

- (1) Guarantee access to authorized persons within 5 days following the date of request;
 - (2) Assure security of the records; and
 - (3) Enumerate and describe the pupil records collected and maintained by the district.
- (d) All anecdotal information and assessment reports maintained as a pupil record shall be dated and signed by the individual who originated the data.
- (e) The district shall notify parents in writing at least annually of their rights in regard to pupil records as per Education Code Section 49063.
- (f) When a parent's dominant language is not English, the district shall make an effort to:

- (1) Provide interpretation of the pupil record in the dominant language of the parent, or
 - (2) Assist the parent(s) in securing an interpreter.
- (g) Neither the pupil record, nor any part thereof, shall be withheld from the parent or eligible pupil requesting access.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 432. Varieties of Pupil Records.

(a) The principal of each school shall keep on file a record of enrollment and scholarship for each pupil currently enrolled in said school.

(b) Local school districts shall not compile any other pupil records except mandatory or permitted records as herein defined:

(1) "Mandatory Permanent Pupil Records" are those records which the schools have been directed to compile by California statute authorization or authorized administrative directive. Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district. The mandatory permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following:

(A) Legal name of pupil.

(B) Date of birth.

(C) Method of verification of birth date.

(D) Sex of pupil.

(E) Place of birth.

(F) Name and address of parent of minor pupil.

1. Address of minor pupil if different than the above.

2. An annual verification of the name and address of the parent and the residence of the pupil.

(G) Entering and leaving date of each school year and for any summer session or other extra session.

(H) Subjects taken during each year, half-year, summer session, or quarter.

(I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken.

(J) Verification of or exemption from required immunizations.

(K) Date of high school graduation or equivalent.

(2) "Mandatory Interim Pupil Records" are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Such records include:

(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records.

(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

(D) Language training records.

(E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067.

(F) Parental restrictions regarding access to directory information or related stipulations.

(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action.

(H) Parental authorizations or prohibitions of pupil participation in specific programs.

(I) Results of standardized tests administered within the preceding three years.

(3) "Permitted Records" are those pupil records which districts may maintain for appropriate educational purposes. Such records may include:

(A) Objective counselor and/or teacher ratings.

(B) Standardized test results older than three years.

(C) Routine discipline data.

(D) Verified reports of relevant behavioral patterns.

(E) All disciplinary notices.

(F) Attendance records not covered in the Administrative Code Section 400.

HISTORY

1. Amendment of subsection (2)(E) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 433. Maintenance and Security of Pupil Records.

(a) The custodian of records shall be responsible for the security of pupil records maintained by the district and shall devise procedures for assuring that access to such records is limited to authorized persons.

(b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil, or when records are maintained in different locations a notation in the central file as to where such other records may be found is required.

§ 434. Access to Pupil Records.

Access to pupil records should be in accordance with Education Code Sections 49069 and 49073 through 49077.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 435. Procedure for Access to Pupil Records.

(a) Authorized organizations, agencies, and persons from outside the school whose access requires the consent of the parent or the adult pupil must submit their request to view the records, together with any required authorization, to the chief school administrator or the custodian of records.

(b) The chief school administrator or the custodian of records or a certificated designee shall be responsible during the inspection for interpretation of the records where necessary and for prevention of their alteration, damage, or loss. In every instance of inspection of pupil records by persons who do not have assigned educational responsibility, an entry shall be made in the access log of said record, indicating the name of the person(s) granted access, the reason access was granted, the time and circumstances of inspection, and the records inspected.

(c) Unless otherwise judicially instructed, the school district shall, prior to the disclosure of any pupil records to organizations, agencies, or persons outside the school pursuant to a court order, give the parent or adult pupil at least three days' notice, if lawfully possible within the requirements of the judicial order, of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing, if practicable. Only those records related to the specific purpose of the court order shall be disclosed.

§ 436. Rights of Parents and Adult Pupils.

A parent or an adult pupil may challenge the content of any pupil record according to the procedures established by Education Code Sections 49069 and 49070. A hearing panel may be convened to aid the superintendent or board in deciding whether a challenge should be sustained, as specified in Education Code Section 49071.

Information shall be corrected or removed if it is: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 437. Retention and Destruction of Pupil Records.

(a) No additions except routine updating shall be made to the record after high school graduation or permanent departure without the prior consent of the parent or adult pupil.

(b) Mandatory permanent pupil records shall be preserved in perpetuity by all California schools according to Chapter 2, Division 16, Part I, of this title.

(c) Unless forwarded to another district, mandatory interim pupil records may be adjudged to be disposable when the student leaves the district or when their usefulness ceases. Destruction shall be in accordance with Section 16027 of this title during the third school year following such classification.

(d) Permitted pupil records may be destroyed when their usefulness ceases. They may be destroyed after six months following the pupil's completion of or withdrawal from the educational program.

The method of destruction shall assure that records are not available to possible public inspection in the process of destruction.

§ 438. Transfer of Records.

(a) When a pupil transfers to another school district or to a private school, a copy of the pupil's Mandatory Permanent Pupil Record shall be transferred upon request from the other district or private school. The original or a copy must also be retained permanently by the sending district. If the transfer is to another California public school, the pupil's entire Mandatory Interim Pupil Record shall be forwarded. If the transfer is out of state or to a private school, the Mandatory Interim Pupil Record may be forwarded. Permitted pupil records may be forwarded. All pupil records shall be updated prior to such transfer.

(b) If the pupil is a within-California transfer, the receiving school shall notify parents of the record transfer. If the student transfers out of state, the sending district may notify the parents of the rights accorded them. The notification shall include a statement of the parent's right to review, challenge, and receive a copy of the pupil record, if desired.

(c) Pupil records shall not be withheld from the requesting district because of any charges or fees owed by the pupil or his parent. This provision applies to pupils in grades K–12 in both public and private schools.

Article 4. Records Identifying and Accounting for Project-Connected Pupils

§ 450. Records Identifying Project-Connected Pupils.

The following procedure shall be used, and the following records kept, in identifying project-connected pupils defined in Education Code Section 41931:

(a) On October 31 or on the last day of school preceding October 31, each school district contemplating the filing of an application for an apportionment under the provisions of Article 14 of Chapter 5 of Part 24 of the Education Code shall identify each pupil who has enrolled in the regular full-time day schools of the district subsequent to the commencement of any project defined in Education Code Section 41930, and whose parent or guardian has moved into the district subsequent to the commencement of such project. The record of identification shall include, but is not limited to, each of the following items of information which shall be verified by an employee of the school district:

- (1) Name of pupil enrolled.
- (2) Grade in which enrolled.
- (3) Name of parent or guardian.
- (4) Address of parent or guardian.
- (5) Date parent or guardian moved into district.
- (6) Name of employer of parent or guardian.
- (7) Address of such employer and location of employment.
- (8) Date of beginning such employment.
- (9) Signature of school district employee verifying information.
- (10) Dates on which re-examinations required by subsection (c) of this section were made.

(11) Date pupil enrolled in the regular full-time day schools.

(b) The pupil identified in (a) above shall include only those pupils whose parents or guardians are employed by a contractor or subcontractor in connection with the project or by the State of California whose work is in connection with the project. Upon verification of the information required in (a) above and the filing of a certification by the parent or guardian of each pupil that such parent or guardian moved into the area

subsequent to the commencement of the project primarily for the purpose of securing employment or being employed in connection with the project, such pupil shall be determined to be in addition to the number of children who would otherwise normally be expected to be in the district pursuant to the provisions of Education Code Section 41931.

(c) Periodically throughout the school year, but not less than three times during such year, the district shall re-examine the employment status of the parent or guardian of each project-connected pupil. The date of any change of employment shall be indicated and the new employer noted on the identification record of the pupil.

NOTE: Authority cited: Section 41931, Education Code.

HISTORY

1. Renumbering from Article 6 (Section 450) to Article 4 (Section 450) filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
2. Amendment and new NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 3. Health and Safety of Pupils

Article 1. Fire Drills

§ 550. Fire Drills.

A fire drill shall be conducted in each elementary and intermediate school at least once each month and in each secondary school not less than twice every school year. The fire drill shall be conducted in accordance with either (a) or (b).

(a) The governing board may arrange for a fire department to conduct fire drills for the school.

(b) The principal of each school shall conduct the fire drills. In this case, all pupils, teachers, and other employees shall be required to leave the building.

NOTE: Authority cited: Section 32001, Education Code. Reference: Section 32001, Education Code.

HISTORY

1. New Chapter 3 (§§ 550, 560, 570–576, 590–593) filed 9–23–69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

Article 2. Civil Defense Plans and Drills

§ 560. Civil Defense and Disaster Preparedness Plans.

The governing board shall adopt a written policy for use by schools of the district in formulating individual civil defense and disaster preparedness plans.

NOTE: Authority cited: Section 33031, Education Code. Reference: None.

HISTORY

1. Amendment filed 6–28–73; effective thirtieth day thereafter (Register 73, No. 26).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

Article 3. School Safety Patrols (Traffic Safety)

§ 570. Establishment and Supervision.

A school safety patrol established by a governing board pursuant to Education Code Section 49300, shall comply with this article, as well as Article 4 (commencing with Section 49300) of Chapter 1 of Part 19 of the Education Code.

NOTE: Authority cited for Article 3: Sections 49300 and 49303, Education Code.

HISTORY

1. Amendment of Section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 571. Age or Grade of Members.

A pupil enrolled in the school who is either less than 10 years old or enrolled in a grade below the fifth grade may not be a member of the patrol.

HISTORY

1. Amendment filed 7-20-73; effective thirtieth day thereafter (Register 73, No. 29).

§ 572. Where School Safety Patrols May Be Used.

School safety patrols may be used only at those locations where the nature of traffic will permit their safe operation. The locations where school safety patrols are used should be determined by joint agreement between the local school district and the local police agency.

§ 573. Hours on Duty.

(a) Patrol members shall reach their posts at least 15 minutes before the opening of classes in the morning and in the afternoon, or at such earlier time as the governing board shall authorize, and shall remain on duty until the last bell calls the pupils to class.

(b) At dismissals, patrol members shall leave their classes in time to reach their posts before the dismissal bell.

(c) At dismissals, each patrol member shall remain on duty until all students who are not stragglers have passed his post.

§ 574. Operating Procedure at Crossings Where School Safety Patrols Are Stationed.

(a) At Crossings Controlled by a Police Officer or a Crossing Guard.

At crossings where traffic is controlled by a police officer or crossing guard, the safety patrol will direct the crossing of the students in conformity with the signal of the police officer or crossing guard.

(b) At Crossings With Automatic Signals.

Patrol members shall hold the students off the roadway until the signals allow them to cross safely. The patrol members should allow only the immediate group to cross. All latecomers should wait for the next cycle.

(c) At Crossings With No Automatic or Pedestrian Signals.

(1) The patrol members shall be so posted as to be clearly visible to approaching traffic. They shall stay out of the moving stream of traffic and where there are parked cars obstructing their view, they shall be posted no farther in the roadway than the outer edge of the parked cars.

(2) Patrol members shall not permit students to enter the roadway until it appears it is safe for them to cross.

(3) When it appears it is safe for them to cross, the patrol members shall direct the students to cross the roadway in a group.

(4) When the students are safely across the roadway, the patrol members shall change the signs so that the normal traffic may proceed and so that the students may be held off the roadway.

(d) At Crossings Where There Are No Automatic Signals and the Roadway Is Designed for More Than Two Lanes of Moving Traffic.

There shall be at least two patrol members. One shall operate as described in section (c) above. The other patrol member shall operate in uniformity similarly on the opposite side of the roadway and give attention to traffic approaching on that side. He shall assist the group of students to reach that side of the roadway safely.

(e) At Crossings Where There Are Pedestrian-operated Signals.

(1) Patrol members shall have the responsibility for the operation of the pedestrians' signals during the hours on duty specified in Section 573.

(2) When there is a break in the traffic stream the patrol member shall activate the signal.

(3) Patrol members shall hold the students off the roadway until the signals allow them to cross. The patrol members shall allow only the immediate group to cross. Latecomers should wait for the next cycle.

(f) Pedestrian Tunnels or Overpasses.

Patrol members shall be stationed on each side of the roadway so that the protection provided shall be used.

(g) Loading on Streetcars.

Patrol members shall hold the students off the roadway until the streetcar or other conveyance which is to be loaded in the roadway has arrived at the loading station and has stopped. The patrol members will then allow the students to cross the roadway to the public conveyance, provided their crossing is not in conflict with a traffic signal, or the direction of a police officer or crossing guard.

§ 575. School Safety Patrol Crossing Sign.

(a) The crossing sign shall be a rigid disk 18 inches in diameter and brilliant red in color. The word STOP in 6-inch white letters shall appear in the center of the disk. The word SCHOOL shall appear in 2-inch white letters directly above and parallel to the word STOP, and the word CROSSING shall appear in 2-inch white letters directly below and parallel to the word STOP.

(b) The sign shall be fastened to a round pole approximately six feet in length, and at such an angle that when the sign is extended in an operating position the lettering will be horizontal.

(c) In lieu of the crossing sign referred to in subsections (a) and (b) of this section, any other type of crossing sign approved by the Department of Public Works may be used.

§ 576. Uniforms and Insignia.

(a) A school safety patrol member (except a member of the R.O.T.C. or California Cadet Corps on traffic duty in his official uniform) shall wear, at all times while on duty, the basic standard uniform specified in this section, except that the rainy day uniform may be worn under appropriate weather conditions. Only the optional additions specified in this section may be added to the uniform.

(b) The basic standard uniform for patrol members is the white or fluorescent orange Sam Browne belt and either an overseas type federal yellow or fluorescent orange cap or a yellow or fluorescent orange helmet.

Optional additions to the basic standard uniform are any or all of the following:

(1) Colored piping on the federal yellow cap

(2) Colored striping on the yellow helmet

(3) A red or fluorescent orange upper garment

(4) Insignia or a special badge identifying the organization, to be worn on the left breast, left arm, or cap.

(c) The rainy-day uniform is a federal yellow raincoat and a federal yellow rain hat. The Sam Browne belt may be worn over the raincoat.

(d) The insignia, or special badge and cap shall be worn only during official school safety patrol duty, except that the governing board may authorize members of the school safety patrol to wear the uniform and insignia for special school safety patrol functions.

Article 4. Vision Testing

(Education Code Section 49452)

§ 590. Duty Authorized Agency.

Pursuant to Education Code Section 49452, a county superintendent of schools may contract with an agency duly authorized to provide vision tests, which includes a city or county health department, a local health district, or the State Department of Health Services.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education Code.

HISTORY

1. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of article heading, section heading, section and NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 591. Employees Authorized to Give Tests.

(a) An employee of a school district or of a county superintendent of schools may be authorized to give vision tests pursuant to Education Code Section 49452 and may be designated a "duly qualified supervisor of health" within the meaning of that section if the employee is:

(1) A physician and surgeon or osteopath employed pursuant to Education Code Section 44873.

(2) A school nurse employed pursuant to Education Code Section 44877.

(3) An optometrist employed pursuant to Education Code Section 44878.

(b) Any other certificated employee of the school district or of the county superintendent of schools may be authorized to give vision tests pursuant to Education Code Section 49452 if the employee has one of the following documents:

(1) A statement from a qualified supervisor of health that the employee has satisfactorily completed an acceptable course of in-service training in techniques and procedures in vision testing of at least six clock hours given by the qualified supervisor of health making the statement and that the employee is qualified to administer vision tests to pupils.

(2) A transcript from an accredited college or university evidencing that the employee has successfully completed an acceptable course in vision testing of at least one semester unit.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44873, 44877, 44878 and 49452, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment of section and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 592. Acceptable Course in Vision Testing.

An acceptable course in vision testing is one that provides the following:

(a) Basic knowledge of the structure, normal development, and function of the eye and common anomalies of vision and factors influencing visual performance.

(b) Basic knowledge of signs and symptoms suggesting eye difficulty.

(c) Techniques and procedures in administering optotype and color vision tests. Such techniques and procedures shall include training in the following:

- (1) Establishing tests rapport with pupils.
- (2) Seating of pupil and placing of equipment.
- (3) Providing adequate lighting conditions for the testing situation.
- (4) Recording test results.
- (5) Referring pupils in need of follow-up.

(d) Practice in administering optotype and color vision tests under the supervision of a duly qualified supervisor of health.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education Code.

HISTORY

1. Amendment of section heading, first paragraph and subsections (c) and (d) and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 593. Responsibility as to Eligibility.

Each school district and county superintendent of schools shall determine and be responsible for the eligibility of personnel employed or permitted by the district or county superintendent of schools to administer vision tests or to conduct inservice training programs in techniques and procedures in administering such tests.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 594. Test of Visual Acuity.

(a) The test of visual acuity administered pursuant to Education Code sections 49452 and 49455 shall mean a test for visual acuity at the far point. This shall be conducted by means of an optotype test. Test failure for the visual acuity test shall be defined as follows:

(1) For children under six years of age: Visual acuity of 20/50 or worse. The designation 20/50 or worse indicates the inability to identify

accurately the majority of letters or symbols on the 20-foot line of the test chart at a distance of 10 feet.

(2) For children six years of age or older: Visual acuity of 20/40 or worse. This means the inability to identify the majority of letters or symbols on 15-foot line of the chart at a distance of 10 feet.

(3) For all children: A difference of visual acuity between the two eyes of two lines or more on the optotype chart.

(b) For pupils who, because of age or special needs are not able to be tested with an optotype test, other types of vision testing, such as a functional vision test, may be utilized, using procedures and criteria of failure as described by the manufacturer.

(c) If a pupil fails a vision test that is conducted by an employee authorized to give vision tests pursuant to subdivision (b) of Section 591, a reevaluation shall be conducted prior to a report being made to the pupil's parent or guardian. This reevaluation shall be conducted by an employee authorized to give vision tests pursuant to subdivision (a) of Section 591.

(d) If a pupil fails a vision test conducted by an employee authorized to give vision tests pursuant to subdivision (a) of Section 591, a report shall be made to the pupil's parent or guardian as required by Education Code Section 49456.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 3308.5, 49452, 49455 and 49456, Education Code.

HISTORY

1. New section filed 1-19-73; effective thirtieth day thereafter (Register 73, No. 3).
2. Amendment filed 5-21-75; effective thirtieth day thereafter (Register 75, No. 21).
3. Amendment of Section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment of section heading and section and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 595. Appraisal of Color Vision.

The appraisal of color vision in male pupils pursuant to Education Code sections 49452 and 49455 shall mean a test employing pseudoisochromatic plates. Procedures and criteria of failure as described by the manufacturer shall be used.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

HISTORY

1. New section filed 1-19-73; effective thirtieth day thereafter (Register 73, No. 3).
2. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of section heading and section and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

§ 596. Gross External Observation of the Children's Eyes, Visual Performance and Perception.

Gross external observation of the children's eyes, visual performance and perception, pursuant to Education Code sections 49452 and 49455, shall mean continuous observation by teachers of the appearance, behavior and complaints of pupils that might indicate vision problems. Also, periodic investigation where pupils' school performance begins to give evidence that existence of the problem might be caused by a visual difficulty. Such an evaluation shall be done in consultation with the school nurse.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

HISTORY

1. New section filed 1-19-73; effective thirtieth day thereafter (Register 73, No. 3).
2. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of section and new NOTE filed 8-9-2004; operative 8-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 33).

Article 4.1. Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day

§ 600. Authorization.

Pursuant to Section 49423 and subdivision (b) of Section 49423.6 of the Education Code, any pupil who is required to take, during the regular school day, prescribed medication may be assisted by a school nurse or other designated school personnel if both of the following conditions are met:

(a) The pupil's authorized health care provider executes a written statement specifying, at a minimum, the medication the pupil is to take, the dosage, and the period of time during which the medication is to be

taken, as well as otherwise detailing (as may be necessary) the method, amount, and time schedule by which the medication is to be taken.

(b) The pupil's parent or legal guardian provides a written statement initiating a request to have the medication administered to the pupil or to have the pupil otherwise assisted in the administration of the medication, in accordance with the authorized health care provider's written statement.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New article 4.1 (sections 600–611) and section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 601. Definitions.

As used in Section 49423 and subdivision (b) of Section 49423.6 of the Education Code and in this article:

[The next page is 11.]

(a) "Authorized health care provider" means an individual who is licensed by the State of California to prescribe medication.

(b) "Medication" may include not only a substance dispensed in the United States by prescription, but also a substance that does not require a prescription, such as over-the-counter remedies, nutritional supplements, and herbal remedies.

(c) "Medication log" may consist of a form developed by the local education agency for the documentation of the administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication. The medication log may include the following:

- (1) Pupil's name;
- (2) Name of medication the pupil is required to take;
- (3) Dose of medication;
- (4) Method by which the pupil is required to take the medication;
- (5) Time the medication is to be taken during the regular school day;
- (6) Date(s) on which the pupil is required to take the medication;
- (7) Authorized health care provider's name and contact information; and
- (8) A space for daily recording of medication administration to the pupil or otherwise assisting the pupil in administration of the medication, such as date, time, amount, and signature of the individual administering the medication or otherwise assisting in administration of the medication.

(d) "Medication record" may include:

- (1) The authorized health care provider's written statement;
- (2) The written statement of the parent or legal guardian;
- (3) The medication log; and
- (4) Any other written documentation related to the administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication.

(e) "Other designated school personnel" may include any individual employed by the local education agency who:

- (1) Has consented to administer the medication to the pupil or otherwise assist the pupil in the administration of medication; and
- (2) May legally administer the medication to the pupil or otherwise assist the pupil in the administration of the medication.

(f) "Parent or legal guardian" means the individual recognized by the local education agency as having authority to make medical decisions for the pupil.

(g) "Regular school day" may include not only the time the pupil receives instruction, but also the time during which the pupil otherwise participates in activities under the auspices of the local education agency, such as field trips, extracurricular and cocurricular activities, before- or after-school programs, and camps or other activities that typically involve at least one overnight stay away from home.

(h) "School nurse" means an individual employed by the local education agency who is a currently licensed registered nurse and is credentialed pursuant to Education Code section 44877.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 44877, 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11-20-2003; operative 11-20-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 602. Written Statement of Authorized Health Care Provider.

(a) A local education agency may establish specifications for the authorized health care provider's written statement in order to ensure that:

- (1) The pupil is clearly identified;
- (2) The medication is clearly identified;
- (3) The dosage is clearly specified;
- (4) The period of time during which the medication is to be taken is clearly specified; and
- (5) Other information is obtained that is relevant to administering the medication to the pupil or otherwise assisting the pupil in administration of the medication.

(b) A pupil's parent or legal guardian may deliver the authorized health care provider's written statement to an authorized representative of the local education agency, such as the schoolsite administrator or his or her designee.

(c) A local education agency may require that an amended or new written statement be provided annually and whenever there is a change in the pupil's authorized health care provider, or a change in the medication, dosage, method by which the medication is required to be taken, or date(s) or time(s) the medication is required to be taken.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11-20-2003; operative 11-20-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 603. Written Statement of the Parent or Legal Guardian.

(a) A local education agency may establish specifications for the written statement of the pupil's parent or legal guardian in order to ensure that:

- (1) The pupil is clearly identified.
- (2) Permission is obtained for an authorized representative of the local education agency to communicate directly with the pupil's authorized health care provider, as may be necessary, regarding the authorized health care provider's written statement.

(3) The parent or legal guardian understands what employees of the local education agency will do to administer the medication to the pupil or otherwise assist the pupil in the administration of the medication.

(4) The parent or legal guardian understands his or her responsibilities to enable employees of the local education agency to administer the medication to the pupil or otherwise assist the pupil in administration of the medication, e.g., to ensure that a current authorized health care provider's written statement has been delivered to an authorized representative of the local education agency, or to ensure that the medication is delivered to the schoolsite in a proper container by an individual legally authorized to be in possession of the medication.

(5) The parent or legal guardian understands how he or she may terminate consent for administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication.

(b) A local education agency may provide reasonable accommodations to a parent or legal guardian who has insufficient English language proficiency to produce a written statement without assistance or who has a disability that makes it difficult to produce a written statement.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11-20-2003; operative 11-20-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication.

(a) A school nurse may administer medication to a pupil or otherwise assist a pupil in the administration of medication as allowed by law and in keeping with applicable standards of professional practice.

(b) Other designated school personnel may administer medication to pupils or otherwise assist pupils in the administration of medication as allowed by law and, if they are licensed health care professionals, in keeping with applicable standards of professional practice for their license.

(c) The pupil's parent or legal guardian may administer medication to the pupil or otherwise assist the pupil in the administration of medication as allowed by law.

(d) An individual designated to do so by the parent or legal guardian may administer medication to the pupil or otherwise assist the pupil in the administration of medication as allowed by law. A local education agency may establish rules governing the designation of an individual by a parent or legal guardian in order to ensure that:

- (1) The individual is clearly identified;
- (2) The individual is willing to accept the designation;

(3) The individual being designated is permitted to be present on the school site;

(4) Any limitations on the individual's authority in his or her capacity as designee are clearly established; and

(5) The individual's service as a designee would not be inconsistent or in conflict with his or her employment responsibilities, if the individual being designated is employed by the local education agency.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 605. Self-Administration of Medication.

With the approval of the pupil's authorized health care provider and the approval of the pupil's parent or legal guardian, a local education agency may allow a pupil to carry medication and to self-administer the medication. A local education agency may establish rules governing self-administration in order to protect the health and safety both of the pupil and of the whole student body and staff at the schoolsite. Through such rules, a local education agency may describe circumstances under which self-administration may be prohibited.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 606. Delivery and Storage of Medication.

A local education agency may establish policies governing the delivery of medication to the schoolsite (other than medication a pupil is allowed to carry for purposes of self-administration), as well as the storage of medication in a manner that is secure and maintains the medication's effectiveness.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 607. Documentation.

A local education agency may establish policies regarding documentation of the administration of medication to pupils or otherwise assisting pupils in the administration of medication to ensure that:

(a) Pupil confidentiality is appropriately maintained;

(b) A medication record is maintained for each pupil to whom medication is administered or other assistance is provided in the administration of medication; and

(c) An appropriate record is kept of pupils who are allowed to carry and self-administer medication.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 608. Deviation from Authorized Health Care Provider's Written Statement.

A local education agency may establish policies regarding any material or significant deviation from the authorized health care provider's written statement in order to ensure that, as quickly as possible upon discovery, appropriate notification of the deviation is made:

(a) In accordance with applicable standards of professional practice, if the discovery is made by a licensed health care professional; or

(b) To the schoolsite administrator, the pupil's parent or legal guardian, an employee of the local education agency who is a licensed health care professional (if any), and the pupil's authorized health care provider, if the discovery is made by an individual who is not a licensed health care professional.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 609. Unused, Discontinued and Outdated Medication.

A local education agency may establish policies regarding unused, discontinued, and outdated medication in order to ensure that:

(a) Such medication is returned to the pupil's parent or legal guardian where possible;

(b) Such medication that cannot be returned to the pupil's parent or legal guardian is disposed of by the end of the school year in accordance with applicable law.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 610. Applicability of this Article.

Nothing in this article may be interpreted as creating a state-mandated local program or as affecting in any way:

(a) The statutes, regulations, or standards of practice governing any health care professional licensed by the State of California in the carrying out of activities authorized by the license;

(b) The statutes or regulations governing the administration of medication to pupils or otherwise assisting pupils in the administration of medication by individuals who are not licensed health care professionals, other than Section 49423 and subdivision (b) of Section 49423.6 of the Education Code;

(c) The use of emergency epinephrine auto-injectors pursuant to Section 49414 of the Education Code;

(d) The content or implementation of a pupil's individualized education program prepared in accordance with applicable provisions of federal and state law, or a pupil's Section 504 Accommodation Plan prepared in accordance with applicable provisions of the federal Rehabilitation Act of 1973.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49414, 49423 and 49423.6, and Part 30 (commencing with Section 56000) of Division 4 of Title 2, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

§ 611. Issuance and Periodic Updating of Advisory.

The California Department of Education, with the approval of the State Board of Education, may issue and periodically update an advisory providing non-binding guidance on the administration of medication to pupils and otherwise assisting pupils in the administration of medication. The advisory shall be a program guideline under Education Code section 33308.5, and shall meet the requirements of Education Code section 33308.5 (including the written notification that the guideline is merely exemplary and that compliance with the guideline is not mandatory).

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 33308.5, 49423 and 49423.6, Education Code.

HISTORY

1. New section filed 11–20–2003; operative 11–20–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 47).

Article 5. School Environment for Pupils

§ 630. Condition of School Premises.

Governing boards, superintendents, principals, and teachers are responsible for the sanitary, neat, and clean condition of the school premises and freedom of the premises from conditions that would create a fire or life hazard.

NOTE: Authority cited for Article 5: Section 33031, Education Code.

HISTORY

1. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 76, No. 9.

§ 631. Maintenance.

Adequate separate toilet facilities shall be maintained for each sex, and all buildings and grounds shall be maintained according to the regulations of the Board of Health having jurisdiction over the school district.

§ 632. School Crossing Signs.

The governing board shall neither purchase nor accept any school crossing sign (except hand signs to be carried by adult crossing guards and hand signs described in Section 575 to be carried by school safety patrols), unless it conforms to the requirements of the Traffic Manual issued by the California Department of Transportation.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 6. Pupil Fingerprinting Program**§ 640. Definitions.**

(a) "Private funding," as used in Education Code Section 32390(a), means fund-raising activities by the school district or private persons or entities, or any other form of accepting donated funds.

(b) "Volunteer assistance," as used in Education Code Section 32390(a), means the voluntary contribution, without charge to the school district, of materials, equipment, or personal time, special knowledge or skill.

NOTE: Authority cited: Section 32390(a), Education Code. Reference: Section 32390(a), Education Code.

HISTORY

1. New section filed 10-8-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 46).

§ 641. Standards.

In providing fingerprint services, school districts shall comply with the following standards:

(a) The standard California Department of Justice 8" x 8" personal identification fingerprint form (BID-8) may be used. Other fingerprint forms may be used that are of the card stock, size and format of form BID-8, as specified by the California Department of Justice.

(b) Fingerprint equipment used shall provide for a permanent black finger print impression. Standard fingerprinting ink or inkless equipment shall be used which meet standards specified by the California Department of Justice.

(c) Those specifications referred to in subsections(a) and (b) may be obtained from the California Department of Justice, Bureau of Criminal Identification, P.O. Box 903417, Sacramento, California 94203-4170.

(d) A full set of fingerprints shall be taken that includes the ten rolled impressions and the two flat impressions. A notation shall be made on the fingerprint form when fingers are amputated, bandaged or deformed.

(e) A person trained in the taking of fingerprints shall perform the fingerprint process, or if an untrained person is used, a trained person shall inspect each set of fingerprint impressions for quality. A person is deemed to be trained in the taking of fingerprints if he or she has completed a course of instruction in the taking of fingerprints from a law enforcement agency, or a public or private college or university, or from a person who has successfully completed a course of instruction in the taking of fingerprints from a law enforcement agency, or a public or private college or university.

NOTE: Authority cited: Section 32390(a), Education Code. Reference: Section 32390(a), Education Code.

HISTORY

1. New section filed 10-8-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 46).

Article 7. Safe Schools Assessment Program**§ 700. Definitions.**

(a) "Aggregated data," means the information contained on all of the completed California Safe Schools Assessment School Crime and Incident Reporting Forms (July 1, 2001) collected during each reporting period by the school district or county office of education from each school, program, or camp within the jurisdiction of the superintendent of the respective school district or county office of education.

(b) Crime classifications

(1) Arson

"Arson" means the willful and malicious setting fire to or burning any structure or property, regardless of the value of the property. Arson does not include one burning his or her own property, unless there is injury to another person or another person's property. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of arson that result in an economic loss of \$100 or more to an individual, the school district or county office of education.

(2) Assault with a deadly weapon

"Assault with a deadly weapon" means the use of a firearm, deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury. A deadly weapon can be a firearm; stun gun or taser; bows and arrows; knives or other cutting instruments; clubs; bottles; explosives; and body parts, such as teeth, hands, fists, and feet used with force likely to produce great bodily injury.

(3) Battery

"Battery" means the willful and unlawful use of force or violence upon the person of another.

(4) Burglary

"Burglary" means any entry with the intent to commit a theft or any felony, even though force may not have been used to gain entry.

(5) Destructive devices

"Destructive devices" means the use of any of the following for criminal purposes:

(A) Projectile containing any explosive or incendiary material or any chemical substance, bomb, facsimile bomb, grenade, explosive missile or similar device or any launching device.

(B) Weapon of a caliber greater than 0.60 caliber which fires fixed ammunition or any ammunition other than a shotgun.

(C) Rocket, rocket propelled projectile, or any similar device of diameter greater than 0.60 inches or launching device.

(D) Breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(E) Sealed device containing dry ice (CO₂) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

Included in this category also are written or oral threats to use destructive devices. Devices such as snappers or poppers, firecrackers, and fireworks shall not be reported.

(6) Drug and alcohol offenses

"Drug and alcohol offenses" means the possession, use, sale, or furnishing of any drug, intoxicating liquor, controlled substance, or toluene, as well as drug paraphernalia, that is prohibited by law.

(7) Explosive devices

"Explosive devices" means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion with criminal intent. Explosives include, but are not limited to:

(A) Dynamite, nitroglycerin, black powder, propellant explosives, detonating primers, blasting caps or commercial boosters.

(B) Substances determined to be class A and class B explosives by the United States Department of Transportation.

(C) Nitro carbo nitrate substances (blasting agent) as classified by the United States Department of Transportation.

(D) Any material designated as an explosive by the State Fire Marshal.

(E) Certain class C explosives designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

Included in this category also are written or oral threats to use explosive devices. Devices such as snappers or poppers, firecrackers, and fireworks shall not be reported.

(8) Graffiti

"Graffiti" means any form of unauthorized painting, writing, or inscription on the property of a school district or county office of education, regardless of the content or nature of the material used in the commission of the act. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of graffiti that result in an economic loss of \$100 or more to an individual, the school district or county office of education.

(9) Hate Crime

"Hate crime" means an act or attempted act against the person or property of another individual or institution which in any way manifests evidence of hostility toward the victim because of his or her actual or perceived race, religion, disability, gender, nationality, or sexual orientation. This includes, but is not limited to, threatening telephone calls, hate mail, physical assault, vandalism, cross burning, destruction of religious symbols, or fire bombings. This paragraph shall include those threats or hate mail sent by electronic communication.

(10) Homicide

"Homicide" means the unlawful killing of a person by another person.

(11) Loitering or trespassing

(A) "Loitering" means to delay, to linger, or to idle about any school location without lawful business for being present.

(B) "Trespassing" means the entering of school grounds during school hours without registering with the site or program administrator, as required by law, and remaining after being asked to leave, or returning to the school grounds within thirty days of being asked to leave or within seven days if the person is a parent or guardian of a student attending the school.

(12) Possession of weapons

"Possession of weapons" means the unauthorized possession of dangerous weapons, which include, but are not limited to, fire arms or knives.

(13) Robbery/extortion

(A) "Robbery" means the taking of personal property in possession of another, from his person or immediate presence, and against his will, accomplished by force or fear.

(B) "Extortion" means the taking of property from another person without their consent. Extortion is induced by a threat of force or wrongful use of fear. Extortion may occur over a period of time. Included in this category are written or oral threats to take property.

(14) Sex offenses

"Sex offenses" mean sexual battery, rape, statutory rape, sodomy, lewd and lascivious conduct with children, oral copulation, and child molestation.

(15) Theft

"Theft" (larceny) means the taking, leading, driving, or carrying away of property (including motor vehicles) belonging to another with the intent to deprive the rightful owner of its use, regardless of the value of the property. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of theft that result in an economic loss of \$50 or more to the individual, school district, or county office of education.

(16) Vandalism

"Vandalism" (to school, student, or employee property on school location) means the malicious defacing, damaging, or destroying of property.

Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of vandalism that result in an economic loss of \$100 or more to the individual, school district, or county office of education.

(c) "Economic loss" means (except in the case of arson) the gross dollar loss as a result of a crime committed against the property of an individual, school district or county office of education before any insurance claim payments, restitution by students, or restitution by parents or guardians. In the case of arson, "economic loss" means the estimated cost of the economic loss to the individual, school district or county office incurred as a result of the arson.

(d) "Hate motivated incident" means an act or attempted act which constitutes an expression of hostility against a person or property or institution because of the victim's real or perceived race, religion, disability, gender, nationality, or sexual orientation. A hate motivated incident can be using bigoted insults, taunts, or slurs; distributing or posting hate group literature or posters; defacing, removing, or destroying posted materials or announcements; or posting or circulating demeaning jokes or leaflets. This subsection shall include those expressions of hostility sent by electronic communication.

(e) "Intentionally misleading data" means data that the school district or county office of education superintendent intentionally withheld that clearly should have been reported, or data submitted that was known or reasonably should have been known to be misleading or false.

(f) "Location" means the places where, and the times when, school personnel have supervisory responsibility for pupils, that include the following:

(1) On campus, including before or after school, and during lunch and recess.

(2) On a school bus, to or from school, or to or from a school-sponsored activity.

(3) Off campus during lunch or at a school-sponsored activity.

(4) On the way directly to and from school or at a school-sponsored activity.

(g) "Non-student" means a person, regardless of age, not enrolled in the school or program reporting the crime, including hate crime or hate motivated incident.

(h) "Reportable crime" means an act that (1) is a violation of an existing criminal statute, (2) involves school activities or school-sponsored activities conducted by school districts or county offices of education, and (3) is reportable to local law enforcement as a crime, including hate crime, whether or not a crime report is filed with the local law enforcement. The reportable crime classifications are described above in subsection (b).

(i) "Reportable hate motivated incident" means an act or attempted act that (1) is a violation of an existing civil rights statute, and (2) involves school activities or school-sponsored activities conducted by school districts or county offices of education. The reportable hate motivated incident classification is described above in subsection (d).

(j) "Safe schools assessment" means the reporting of crime, including hate crime and hate motivated incidents, committed at a location, as defined above in subsection (f).

(k) "School bus" means a bus that is owned or leased by the school district or county office of education for the purpose of transporting students or staff members to or from school or school-sponsored activities.

(l) "Site or program administrator" means the school or program site person who has responsibility for compiling the school crime and hate motivated incident data and reporting the crime and incident data to the respective school district or county office of education superintendent. The site or program administrator can be, but is not limited to, school site principals, vice principals, counselors, and coordinators or directors of county-operated programs.

(m) "Student" means a person enrolled in the school or program reporting the crime or incident.

(n) "Suspect" means a person reasonably suspected of having committed the crime or incident.

(c) "Victim," as it relates to crimes against persons, including hate crimes and hate motivated incidents, means a person against whom a crime or incident was committed.

NOTE: Authority cited: Section 33031, Education Code; and Section 628.1, Penal Code. Reference: Section 25608, Business and Professions Code; Sections 44807 and 48900, Education Code; Sections 11014.5, 11018, 11054–11058, 11351, 11357, 11359, 11360, 11364, 11364.7, 11550, 11680, 11681 and 12000, Health and Safety Code; and Sections 71, 148.1, 187, 192, 211, 212, 242, 243.2, 243.4, 244.5, 245, 245.5, 261, 261.5, 286, 288, 288a, 308(b), 380, 381, 417, 417.4, 451, 452, 459, 484, 487, 488, 518, 519, 594, 626.7–626.9, 628–628.6, 640.5, 647(f), 647.6, 653(g), 12020, 12220, 12301(a), 12403.7(d) and 12403.8, Penal Code.

HISTORY

1. New subchapter 3, article 7 and section filed 9–13–95 as an emergency; operative 9–13–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–11–96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction deleting duplicative subchapter 3 heading (Register 96, No. 7).
3. Certificate of Compliance as to 9–13–95 order including amendment of subsections (b)(1), (b)(5), (b)(7), (b)(14), renumbering of (b)(16) to (b)(15), and amendment of subsection (h) transmitted to OAL 1–4–96 and filed 2–13–96 (Register 96, No. 7).
4. Amendment of subsections (a), (b)(10)(B), and (b)(13) and amendment of NOTE filed 8–4–98; operative 8–4–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 32).
5. Amendment filed 8–1–2001; operative 8–1–2001 pursuant to Government Code Section 11343.4 (Register 2001, No. 31).

§ 701. School Crime and Incident Reporting Procedures.

(a) All school district superintendents and county office of education superintendents who operate educational programs are required to submit to the California Department of Education safe school assessment reports that contain specific numerical data on the incidents of crime, including hate crimes or hate motivated incidents, occurring on their respective school campuses. Each school district or county office of education shall utilize the following procedure to report crime and hate motivated incident data from school or program sites to the respective school district or county office of education superintendent, and to the California Department of Education:

(1) Each administrator of a school site or county office of education program, or designee, shall complete a California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for each incident of crime, including hate crime or hate motivated incidents. The information on the form includes, but is not limited to, identification of the crime or hate motivated incident, victim characteristics, suspect characteristics, if known at the time of the incident, and the actual or estimated dollar loss to the school district or county office of education resulting from a criminal act directed against property of the school district or county office of education. The site or program administrator shall use the crime and hate motivated incident classification definitions as specified above in Section 700(b) and (d) and the reporting guidelines as specified below in Section 702(a) to determine if a crime or an incident is reportable for the purposes of the Safe Schools Assessment Program.

(2) The site or program administrator, or designee, shall retain on file for not less than three years the individual reports of crimes and hate motivated incidents on which the aggregate data is based, and any other required documentation, as specified below in Section 702(b).

(3) Each month the data regarding reportable school crimes and hate motivated incidents shall be reported to the designated person at the respective school district or county office of education.

(4) Any school district that has its own police department may have the chief of its police force or other administrator of the police department prepare the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for its schools and submit the aggregated data to the California Department of Education.

(5) On or before February 1 and August 1 of each year, the respective school district or county office of education superintendent, or designee, shall aggregate the school crime and hate motivated incident data reported by schools or programs within their jurisdiction and report the aggregated data to the California Department of Education.

(6) Beginning February 1, 1997 and thereafter, if a school district or county office of education chooses to submit its data to the California Department of Education in an electronic format, it must do so in a format designated by the California Department of Education. For the purposes of this section, an electronic format includes, computer disk, modem transfer, or other electronic means.

(b) Reportable crimes and hate motivated incidents occurring at a school in the jurisdiction of another school district or county office of education shall be reported by the education agency in which the crime or hate motivated incident occurred.

NOTE: Authority cited: Section 33031, Education Code; and Section 628.1, Penal Code. Reference: Section 48902, Education Code; and Sections 628–628.6, Penal Code.

HISTORY

1. New section filed 9–13–95 as an emergency; operative 9–13–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–11–96 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–13–95 order transmitted to OAL 1–4–96 and filed 2–13–96 (Register 96, No. 7).
3. Amendment of subsections (a)(1) and (a)(4) filed 8–4–98; operative 8–4–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 32).
4. Amendment of section heading and section filed 8–1–2001; operative 8–1–2001 pursuant to Government Code Section 11343.4 (Register 2001, No. 31).

§ 702. Guidelines for Reporting and Required Documentation.

Site or program administrators and school district and county office of education superintendents shall use (1) crime and hate motivated incident classifications based on existing statutes, as specified above in Section 700(b) and (d), (2) reporting guidelines as specified in subsection (a) below, and (3) guidelines for required documentation as specified in subsection (b) below to complete the reporting procedures as specified above in Section 701.

(a) Reporting guidelines

The site or program administrator or designee shall report a crime or hate motivated incident when it has been determined that a reportable crime or hate motivated incident, as specified above in Section 700(b) and (d), has been committed on a school location, as specified above in Section 700(f). If more than one crime or hate motivated incident is committed during an occurrence, the most serious crime or incident in the judgment of the site or program administrator or designee shall be reported. The suspect(s) need not be apprehended for a crime or hate motivated incident to be reportable. The site or program administrator or designee may consult with local law enforcement to confirm that the occurrences reported on the forms are crimes or hate motivated incidents as defined in statute.

(b) Required documentation

The school district or county office of education superintendent responsible for reporting school crime and hate motivated incident data shall make available, for not less than three years from the date the report was submitted, supporting data which verifies information contained on the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001). Such data shall include, but not be limited to, reports to local law enforcement officers and suspension and expulsion reports which have been reported to the respective local governing board, for the crime classifications specified in Education Code section 48915(a) through (d); and insurance claims, maintenance records, and other documents to verify economic loss, if applicable. In addition, staff should be available to participate in interviews during site visits from the California Department of Education.

NOTE: Authority cited: Section 33031, Education Code; and Section 628.1, Penal Code. Reference: Sections 628–628.6, Penal Code.

HISTORY

1. New section filed 9–13–95 as an emergency; operative 9–13–95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–11–96 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–13–95 order transmitted to OAL 1–4–96 and filed 2–13–96 (Register 96, No. 7).

3. Amendment of subsection (b) filed 8-4-98; operative 8-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 32).
4. Amendment filed 8-1-2001; operative 8-1-2001 pursuant to Government Code Section 11343.4 (Register 2001, No. 31).

§ 704. Certification of Report.

Each school district or county office of education superintendent or designee shall certify to the best of their knowledge and belief that the information in each crime and hate motivated incident reporting form is true, accurate, and complete prior to submission to the California Department of Education.

NOTE: Authority cited: Section 33031, Education Code; and Section 628.1, Penal Code. Reference: Sections 628-628.6, Penal Code.

HISTORY

1. New section filed 9-13-95 as an emergency; operative 9-13-95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-11-96 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-95 order transmitted to OAL 1-4-96 and filed 2-13-96 (Register 96, No. 7).
3. Amendment filed 8-1-2001; operative 8-1-2001 pursuant to Government Code Section 11343.4 (Register 2001, No. 31).

§ 705. Failure to Submit or Intentionally Submitting Misleading Data.

School districts or county offices of education failing to submit a report or intentionally submitting misleading data may be sanctioned by the Superintendent of Public Instruction. The sanction is withholding a dollar amount not to exceed one-half of the annual salary of the superintendent of either the reporting school district or the county office of education from the school district's or county office of education's next state funding apportionment.

NOTE: Authority cited: Section 33031, Education Code; and Section 628.1, Penal Code. Reference: Section 14044, Education Code; and Sections 628-628.6, Penal Code.

HISTORY

1. New section filed 9-13-95 as an emergency; operative 9-13-95 (Register 95, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-11-96 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9-13-95 order transmitted to OAL 1-4-96 and filed 2-13-96 (Register 96, No. 7).

Subchapter 3.5. Leroy Greene Assessment of Academic Achievement

§ 800. General Testing Provisions.

To be eligible for incentive funding available under the voluntary Pupil Testing Incentive Program pursuant to Education Code Section 60640(a), a school district must certify that it administered an approved test to all pupils enrolled in grades two through ten or in as many of those grades as are operated by the school district during the time specified by the State Superintendent of Public Instruction.

(a) Each pupil enrolled in the school district during the school district's testing period shall be given an achievement test of basic academic skills, including pupils in subgroups that may have been exempt from testing in the past.

(b) School districts shall make whatever arrangements are necessary to ensure that pupils in alternative education programs or programs conducted off-campus are tested including, but not limited to, pupils enrolled in the school district's continuation school, independent study, or community day school.

(c) Make-up sessions shall be scheduled to permit pupils who were not present during the initial test administration to complete the achievement test of basic academic skills.

(d) A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of the achievement test of basic academic skills. Such requests must be initiated by the parent or

guardian and no school official shall solicit such a written request on behalf of any child.

(e) If a pupil would not be tested pursuant to Section 802(a), the school in which the pupil is enrolled shall test the pupil upon the written request of the pupil's parent or guardian that his or her pupil be tested with any or all parts of the achievement test of basic academic skills. Such testing must be conducted during the same testing window during which other pupils in the same grade are tested.

(f) Achievement tests of basic academic skills are to be selected from among those currently approved for use by the California State Board of Education pursuant to Education Code section 60604(d).

(g) School districts shall use more than one approved test, if necessary, to produce scores for all pupils in the required curriculum areas of reading, spelling, written expression, and mathematics.

(h) Pupils in special education programs may be tested with an achievement test of basic academic skills with necessary adaptations or accommodations including, but not limited to, large print, braille, extended time or the use of a reader or scribe. Pupils tested with adaptations or accommodations shall be counted for the \$5 per-pupil tested apportionment pursuant to Education Code section 60640(a).

(i) Oral language proficiency assessments do not qualify as achievement tests of basic academic skills.

(j) School districts may administer an achievement test of basic academic skills to pupils enrolled in grades other than two through ten, but such pupils may not be counted for the \$5 per-pupil tested apportionment pursuant to Education Code section 60640(a).

(k) Pursuant to Education Code section 60641(a), the State Superintendent of Public Instruction has designated that achievement tests shall be administered during the fall, or beginning of the school year, between 5 and 25 percent of the school district's instructional days, or during the spring, or end of the school year, between 70 and 90 percent of the school district's instructional days.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Sections 60603(a) and (c), 60604(a)(1), (c), and (d), 60605(b), 60640 and 60641, Education Code.

HISTORY

1. New subchapter 3.5 (section 800) and section filed 5-22-96 as an emergency; operative 5-22-96 (Register 96, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-19-96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of subsection (b) (Register 96, No. 38).
3. New subchapter 3.5 (section 800) and section refiled 9-19-96 as an emergency; operative 9-20-96 (Register 96, No. 38). A Certificate of Compliance must be transmitted to OAL by 1-21-97 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 97, No. 24).
5. New subchapter 3.5 (sections 800-802) and section filed 6-11-97; operative 6-11-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

§ 801. Reporting Test Results.

For purposes of Education Code section 60641(b), school districts shall give a written report of individual pupil results to the pupil's parent or guardian no later than 40 school days following the date on which the school district received the results of the achievement testing of basic academic skills.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Section 60641(b), Education Code.

HISTORY

1. New section filed 6-11-97; operative 6-11-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

§ 802. Waiver Criteria.

(a) To establish compliance with Education Code sections 60640 and 60641, school districts may request a waiver of the requirement under Education Code section 60640(a) that all pupils be tested from the California State Board of Education pursuant to Education Code sections 33050-33053. The California State Board of Education shall approve the waiver for one or more of the following types of pupils:

(1) Special Education pupils whose Individualized Education Programs (IEP) provide for, and the school district implements, an alternative means for determining the pupils' academic progress.

(2) Pupils who have not received at least thirty (30) months of instruction in the core curriculum, given primarily in the English language, and the school district implements an alternative means for determining the pupils' academic progress. This provision would only apply if an approved test in the pupils' primary language was not available for purchase.

(3) Pupils who entered school with no reading skills in any language and have been enrolled continuously in the school district for fewer than 180 days.

(4) Pupils who were not present during the test administration or at any required make-up sessions.

(5) Pupils in special programs other than continuation school, independent study, community day school, or those programs identified in (1), (2), or (3) of this subsection, who were not tested due to extraordinary circumstances such as home/hospital study or traveling outside the country.

(b) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the numbers of pupils exempted in each waiver category to the California Department of Education.

(c) When the California State Board of Education approves a waiver of testing all pupils, school districts shall assess the progress in basic academic skills of each pupil not tested using an alternative means appropriate to the pupil's level of language proficiency.

(d) When the California State Board of Education approves a waiver of testing all pupils, school districts shall report the results of the pupil's alternative assessment to the pupil's parent or guardian within 40 school days of the date that the results of the alternative assessment are obtained.

(e) Should the California State Board of Education approve any waiver of testing all pupils under this section, the \$5.00 per pupil incentive funds shall be apportioned solely with respect to each pupil actually tested in compliance with Education Code sections 60640 and 60641.

(f) For the 1996–97 school year only, school districts may submit to the California State Board of Education requests to use tests not approved by the California State Board of Education.

NOTE: Authority: Sections 33031 and 60605(g), Education Code. Reference: Sections 33050–33053, 60640 and 60641, Education Code.

HISTORY

1. New section filed 6–11–97; operative 6–11–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).

Subchapter 3.75. Standardized Testing and Reporting Program

Article 1. General

§ 850. Definitions.

For the purposes of the Standardized Testing and Reporting (STAR) Program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. Accommodations may include variations in scheduling, setting, aids, equipment, and presentation format.

(b) "Administration Period" means one of multiple test administration periods used by school districts with schools or programs on non-traditional calendars that begin and complete the school year at various times and have staggered vacation periods, in order to ensure that all pupils are tested at approximately the same point in the instructional year.

(c) "Alternate Assessment" means an assessment as provided in Education Code section 60640(e) developed to measure the degree to

which pupils with exceptional needs who are unable to take the standards-based achievement tests even with accommodations or modifications are achieving the state content standards. Alternate assessments include administration manuals, administrative materials, and documents on which the test examiner records the pupils' responses.

(d) "California Standards Tests" means an assessment as provided in Education Code section 60642.5 that measures the degree to which pupils are achieving the state content standards.

(e) "Department" means the California Department of Education.

(f) "Designated achievement test" means an assessment as provided in Education Code section 60640(b) and 60642 for grades 3 and 7. The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials.

(g) "Designated primary language test" means an assessment as provided in Education Code section 60640(f)(1) and (2) in each primary language for which a test is available for students with limited English proficiency and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(h) "Eligible pupil" is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted pursuant to Education Code section 60615.

(1) For the designated achievement test, an eligible pupil is any pupil in grades 3 or 7.

(2) For the designated primary language test and the standards-based test in Spanish, an eligible pupil is an English learner with a primary language for which a test is required or optional pursuant to Education Code section 60640.

(i) "Grade" means the grade assigned to the pupil by the school district at the time of testing.

(j) "Modification" means any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores.

(k) "Nonpublic schools (NPS)" are nonpublic, nonsectarian schools as set forth in California Education Code section 56034.

(l) "School districts" includes elementary, high school, and unified school districts; county offices of education; and any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter; and any charter school chartered by the State Board of Education.

(m) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP who has signed a STAR Test Security Affidavit and is required to transcribe a pupil's responses to the format required by the test. A student's parent or guardian is not eligible to be a scribe.

(n) A "significant medical emergency" is a significant accident, trauma, or illness (mental or physical) that precludes a pupil in grades 2 to 11, inclusive, from taking the standards-based achievement tests or designated achievement test. An accident, trauma, or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

(o) "Standards-based achievement tests" means an assessment that measures the degree to which pupils are achieving the state content standards as provided in Education Code sections 60640(e) alternate assessment, 60640(f)(3) standards-based test in Spanish, and 60642.5 California Standards Tests. The standards-based achievement tests include test booklets, test answer documents, administration manuals, administrative materials, practice tests and other materials developed and provided by the contractor of the tests.

(p) "Standards-based test in Spanish" means an assessment as provided in Education Code section 60640(f)(3) in the dominant primary language of limited-English proficient students enrolled in California public schools that measures the degree to which pupils are achieving the state content standards.

(q) "Test examiner" is an employee of a school district or an employee of a non-public school who has been trained to administer the tests and has signed a STAR Test Security Affidavit. For the alternate assessment, the test examiner must be a certificated or licensed school staff member.

(r) "Test proctor" is an employee of a school district, or a person assigned by a nonpublic school to implement a pupil's IEP, who has signed a STAR Test Security Affidavit and has received training designed to prepare him or her to assist the test examiner in the administration of tests within the STAR Program.

(s) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to, accommodations and modifications.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 56034, 60615, 60640, 60642 and 60642.5, Education Code.

HISTORY

1. New subchapter 3.75 (sections 850–874) and section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 3.75 (sections 850–874) and section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. New article 1 heading, amendment of subsection (c), new subsections (g)–(h) and amendment of NOTE filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order, including amendment of NOTE, transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsections (a), (c) and (f), repealer of subsections (g)–(h) and amendment of NOTE filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. Repealer of subsection (d), subsection relettering, new subsections (f)(1)–(g) and amendment of NOTE filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
10. Amendment of subsections (a), (f)(1) and (g), new subsections (h)–(m) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).
11. Amendment filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
12. Amendment of section and NOTE filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 850.5. School District Liability.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60603, 60604 and 60613, Education Code.

HISTORY

1. New section filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Repealer of section and amendment of NOTE filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

Article 2. Designated Achievement Test, Standards–Based Achievement Tests, Alternate Assessment, and Designated Primary Language Test

§ 851. Pupil Testing.

(a) School districts shall administer the designated achievement test, and standards–based achievement tests and the designated primary language test to each eligible pupil, enrolled in a school district on the date testing begins in the pupil's school or school district.

(b) School districts shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools, or nonpublic schools.

(c) No test may be administered in a home or hospital except by a test examiner. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a test examiner provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of subsections (a) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Editorial correction of subsection (b) (Register 98, No. 44).
5. New article 2 heading and amendment of subsections (a) and (c) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10–26–98 order, including amendment of subsection (d), transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
7. Amendment of article heading filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
9. Amendment of article heading, section and NOTE filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
10. Amendment of article heading, section and NOTE filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 852. Pupil Exemptions.

A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. A school district and its employees may discuss the Standardized Testing and Reporting Program with parents and may inform parents of the availability of exemptions under Education Code section 60615. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98

or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 5–5–98 order, including amendment of section, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (b) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of subsection (b) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–27–2000 order, including further amendment of subsection (a), transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
8. Amendment of subsection (b) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).
9. Repealer of subsection (a) designator and subsection (b) filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
10. Amendment filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 853. Administration.

The designated achievement test, standards-based achievement tests and designated primary language test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including new subsections (c) and (d), transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsections (a) and (c) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
8. New subsection (d), subsection relettering and amendment of newly designated subsection (e) filed 11–8–2000; operative 12–8–2000 (Register 2000, No. 45).
9. Amendment of subsections (a) and (b) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
11. Amendment of subsection (a), repealer of former subsections (b)–(e), new subsections (b) and (c) and amendment of NOTE filed 2–3–2004; operative 2–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).
12. Amendment of subsections (b)–(c) filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
13. Amendment filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 853.5. Use of Variations, Accommodations, and Modifications.

- (a) School districts may provide all pupils the following variations:
 - (1) have test directions simplified or clarified.
 - (2) write in test booklets for grades 2 to 11, on the standards-based achievement test inclusive, e.g., underlining, working math problems. Any marks other than those in response circles for grades 2 and 3 must be erased to ensure that the tests can be scored.
 - (3) have as much time as needed within a single sitting to complete a test or test part on the standards-based achievement tests.
- (b) School districts may provide all pupils the following testing variations if regularly used in the classroom:
 - (1) special or adaptive furniture.
 - (2) special lighting, special acoustics, or visual magnifying or audio amplification equipment.
 - (3) an individual carrel or study enclosure.
 - (4) test individually in a separate room provided that an employee of the school, school district, or nonpublic school, who has signed the STAR Test Security Affidavit, directly supervises the pupil.
 - (5) colored overlay, mask, or other means to maintain visual attention to the test or test questions.
 - (6) Manually Coded English or American Sign Language to present directions for administration.
- (c) Eligible pupils with disabilities who have IEPs and pupils with Section 504 plans shall be permitted the following presentation, response or setting accommodations if specified in the IEP or Section 504 plan:
 - (1) large print versions.
 - (2) test items enlarged if font larger than that used on large print versions is required.
 - (3) Braille transcriptions provided by the test contractor.
 - (4) audio or oral presentation of the mathematics, science, or history-social science tests.
 - (5) Manually Coded English or American Sign Language to present test questions on the mathematics, science, or history-social science tests.
 - (6) for grades 4 to 11 responses marked in test booklet and transferred to the answer document by a school, school district, or nonpublic school employee who has signed the STAR Test Security Affidavit.
 - (7) responses dictated orally, in Manually Coded English or American Sign Language to a scribe for selected-response items (e.g., multiple-choice test questions).
 - (8) responses dictated to a scribe, audio recorder, or speech to text converter on the writing portion of the English-language arts tests, and the pupil indicates all spelling and language conventions.
 - (9) use of word processing software with spell and grammar check tools turned off on the writing portion of the English-language arts tests.
 - (10) use of an assistive device that does not interfere with the independent work of the student on the multiple-choice or writing portion of the test.
 - (11) supervised breaks within a section of the test.
 - (12) administration of the test at the most beneficial time of day to the pupil.
 - (13) administration of any test or test part to be given in a single sitting over more than one day except for the writing portion of the English-language arts tests.
 - (14) test administered by a test examiner to a pupil at home or in the hospital.
 - (15) extra time within the testing day on the designated achievement test.
- (d) Eligible pupils with disabilities shall be permitted the following modifications if specified in the eligible pupil's IEP or Section 504 Plan:
 - (1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics or science tests.
 - (2) audio or oral presentation of the English-language arts tests.
 - (3) Manually Coded English or American Sign Language to present test questions on the English-language arts tests.

(4) spellcheckers, grammar checkers, or word processing software programs that check or correct spelling and/or grammar on the writing portion of the English-language arts tests.

(5) mechanical or electronic devices or other assistive devices that are not used solely to record the pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text software, and that identify a potential error in the pupil's response or that correct spelling, grammar or conventions on the writing portion of the English-language arts tests.

(6) responses dictated orally, in Manually Coded English or American Sign Language to provide an essay response to a scribe and the scribe provides spelling, grammar, and language conventions.

(7) dictionary.

(e) If the school district, pupil's IEP team or Section 504 plan proposes a variation for use on the designated achievement test, the standards-based achievement tests, or the designated primary language test, that has not been listed in this section, the school district may submit, to the Department, for review of the proposed variation in administering the designated achievement test standards-based achievement tests or designated primary language test.

(f) School districts shall provide identified English learner pupils the following testing variations if regularly used in the classroom or for assessment:

(1) Flexible setting. Tested in a separate room with other English learners provided that an employee of the school, school district, or non-public school, who has signed the Test Security Affidavit, directly supervises the pupil.

(2) Flexible schedule. Additional supervised breaks following each section within a test part provided that the test section is completed within a testing day. A test section is identified by a "STOP" at the end of it.

(3) Translated directions. Hear the test directions printed in the test administration manual translated into their primary language. English learners shall have the opportunity to ask clarifying questions about any test directions presented orally in their primary language.

(4) Glossaries. Access to translation glossaries/word lists for the standards-based achievement tests in mathematics, science, and history-social science (English to primary language). The translation glossaries/word lists are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries/word lists shall include no definitions or formulas.

NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference: Section 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 2-3-2004; operative 2-3-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).
2. Amendment of section heading and section filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
3. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 854. Advance Preparation for the Tests.

(a) Except for materials specifically provided by the Department or its agents, no program or materials shall be used by any school district or employee of a school district that are specifically formulated or intended to prepare pupils for the designated achievement tests, standards-based achievement tests, or the designated primary language test. No administration or use of an alternate or parallel form of the designated achievement test or the designated primary language test shall be used as practice for any pupils in grades 2 to 11, inclusive.

(b) Practice tests provided by the contractor as part of the standards-based achievement tests and the designated primary language test for the limited purpose of familiarizing pupils with the use of scannable test booklets or answer sheets and the format of test items are not subject to the prohibition of subdivision (a).

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60611 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (b), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of subsection (a) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment of section heading, section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
9. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 855. Testing Period.

(a)(1) The designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision (c), shall be administered to each pupil during a testing window of 21 instructional days that includes 10 instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this 21 instructional day window.

(2) Each school district shall provide for at least two makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five instructional days of the last date that the school district administered the tests but not later than the end of the 21 instructional day period established in subdivision (a)(1).

(b)(1) Any designated primary language test or tests, as applicable, shall be administered between March 15 and May 14, inclusive, of each school year.

(2) Each school district shall provide for at least two makeup days of testing for pupils who were absent during the period that any school administered any designated primary language test or tests. All makeup testing shall occur within ten instructional days of the last date that the school district administered any designated primary language test or tests, but not later than May 25th of each school year, whichever is earlier.

(3) A school district with schools operating on a multitrack year round schedule may submit a request to the contractor to begin testing no earlier than the fourth Monday in February.

(c) The STAR writing assessment shall be administered to each eligible pupil only on the day(s) specified annually by the State Superintendent of Public Instruction. An eligible pupil for purposes of the writing assessment is a pupil taking the standards-based achievement tests for a grade at which the writing test will be administered.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60642.5, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (c), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).

4. Amendment of subsection (c) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
6. Amendment filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-27-2000 order, including further amendment of subsection (a) and NOTE, transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
8. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
9. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 856. Sales and Use Tax.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et seq., Revenue and Tax Code..

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 857. District STAR Coordinator.

(a) On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor(s) of the identity and contact information, including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison between the school district and the contractor(s) and the school district and the Department for all matters related to the STAR Program. A school district superintendent may designate a separate STAR program district coordinator for any designated primary language test.

(b) The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:

- (1) Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.
- (2) Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor, using current enrollment data and communicating school district test material needs to the contractor on or before December 1.
- (3) Ensuring delivery of tests and test materials to the test sites no more than ten or fewer than five working days before the first day of testing designated by the district.

(4) Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.

(5) Maintaining security over the designated achievement test, the standards-based achievement tests, the designated primary language test, and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.

(6) Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils.

(7) Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.

(8) Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862.

(9) Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.

(10) Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.

(11) After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.

(12) Training test site coordinators to oversee the test administration at each school.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 52052, 60630 and 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of subsection (b)(5) (Register 98, No. 42).
4. Certificate of Compliance as to 5-5-98 order, including amendment of subsections (a) and (c), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
5. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-26-98 order, including amendment of subsection (d), transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
7. Amendment filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 12-16-99 order, including amendment of subsection (a), transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
9. Amendment of subsections (a), (b)(2), (b)(5)-(6) and (c) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
11. Amendment of section heading, section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
12. Amendment of subsections (a), (b)(3) and (b)(5)-(6) filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 858. STAR Test Site Coordinator.

(a) At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each

charter school, each court-school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator, and the district coordinator for the designated primary language test by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

(b) The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:

(1) Determining site test and test material needs and communicating the site needs to the district STAR coordinator.

(2) Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.

(3) Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.

(4) Maintaining security over the designated achievement test, the standards-based achievement tests, and the designated primary language test and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.

(5) Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils at the test site.

(6) Overseeing the collection and return of all testing materials to the district STAR coordinator.

(7) Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.

(8) Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.

(9) Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing for the designated achievement test or the standards-based achievement tests.

(10) Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.

(11) Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the designated primary language test, that violate the terms of the STAR Security Affidavit in section 859.

(12) Training all test examiners, proctors, and scribes for administering the tests.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60630 and 60640, Education Code; and 20 USC Section 6311.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsections (b)(4)-(5) filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of subsections (a), (b)(1) and (b)(7) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order, including amendment of subsection (a), transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment of subsections (a), (b) and (b)(4)-(5), new subsection (b)(9) and amendment of subsection (c) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
10. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
11. Amendment of subsections (a), (b)(4), (b)(5), (b)(9) and (b)(11) filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 859. STAR Test Security Agreement and Test Security Affidavit.

(a) All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in subdivision (b) before receiving any designated achievement test, standards-based achievement tests, or designated primary language tests or test materials.

(b) The STAR Test Security Agreement shall be as follows:

STAR TEST SECURITY AGREEMENT

I acknowledge by my signature on this form that the designated achievement test, the standards-based achievement tests, and the designated primary language test are secure tests and agree to each of the following conditions to ensure test security:

(1) I will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the tests' security.

(2) I will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required by the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school district office.

(3) I will keep the designated achievement test, the standards-based achievement tests, and the designated primary language test and test materials in a secure, locked location and will deliver tests and test materials only to those persons who have executed STAR Test Security Affidavits, on actual testing dates as provided in section 859(d).

(4) I will keep the alternate assessment materials in a secure locked location when not being used by examiners to prepare for and to administer the assessment. I will adhere to the contractor's directions for the distribution of the assessment materials to examiners.

(5) I will not copy any part of the tests or test materials without written permission from the Department to do so.

(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument. I will not review any test questions, passages, or other test items with any other person before, during, or after the test administration.

(7) I will not review test questions, develop any scoring keys or review or score any pupil responses except as required by the contractor's manuals.

By signing my name to this document, I am assuring that I will abide by the above conditions.

By: _____

Title: _____

School District: _____

Date: _____

(c) All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the designated primary language test and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in subdivision (d).

(d) The STAR Test Security Affidavit shall be as follows:

STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test, the standards-based achievement tests, and/or the designated primary language test for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

- (1) I will not divulge the contents of the tests to any other person through verbal, written, or any other means of communication.
 - (2) I will not copy any part of the test(s) or test materials.
 - (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.
 - (4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test(s).
 - (5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.
 - (6) I will not review any test questions, passages, or other test items with pupils or any other person before, during, or following testing.
 - (7) I will not develop scoring keys or review or score any pupil responses except as required by the contractor's administration manual(s) to prepare answer documents for machine or other scoring.
 - (8) I will return all test materials, except for alternate assessment materials, to the designated STAR test site coordinator daily upon completion of testing.
 - (9) I will keep all alternate assessment materials in secure locked storage except when I am administering or observing the administration of the assessment to pupils.
 - (10) I will administer the test(s) in accordance with the directions for test administration set forth in the contractor's manual for test administration.
 - (11) I have been trained to administer the tests.
- Signed: _____
 Print Name: _____
 Position: _____
 School: _____
 School District: _____
 Date: _____

(e) To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsections (c) and (d), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsections (b) and (c)-(e) filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).

8. New subsections (b)(4) and (b)(5) and amendment of NOTE filed 2-3-2004; operative 2-3-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 6).
9. Amendment filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
10. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 860. Standard Agreement Between School Districts and Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of NOTE, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 861. School-By-School Analysis.

(a) Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:

- (1) Pupil's full name.
- (2) Date of birth.
- (3) Grade level.
- (4) Gender.
- (5) English proficiency and primary language.
- (6) Date of English proficiency reclassification.
- (7) If R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three times since reclassification.
- (8) Program participation.
- (9) Use of accommodations or modifications.
- (10) Statewide Student Identifier.
- (11) Parent education level.
- (12) School and district California Basic Educational Data System (CBEDS) enrollment.
- (13) Grade last enrolled in school where being tested.
- (14) For English learners, date first enrolled in school in the United States and the length of time in U.S. schools.
- (15) Participation in the National School Lunch Program.
- (16) Ethnicity.
- (17) Primary disability code.
- (18) County and District of residence for pupils with IEPs.
- (19) Special testing conditions and/or reasons for not being tested.
- (20) Student enrolled in NPS by district based on IEP.
- (21) NPS school code.

(b) In addition to the demographic data required to be reported in section 861(a), school districts may report if an eligible pupil is not tested with the standards-based achievement tests due to a significant medical emergency.

(c) Each school district shall provide the contractor for the designated primary language test the information specified in subdivision (a) for

each pupil assessed with the designated primary language test pursuant to Education Code section 60640.

(d) The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated achievement test, and the standards-based achievement tests.

(e) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.

(f) If the information required by section 861(a) is incorrect, the school district may enter into a separate agreement with the contractor to have the district's student data file corrected. The district STAR coordinator shall provide the correct information to the contractor within the contractor's timeline. Any costs for correcting the student data shall be the district's responsibility.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60630, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a), repealer of subsections (a)(10) and (a)(11), and amendment of NOTE, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsections (a) and (a)(8) and new subsection (a)(10) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
6. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
7. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 862. Apportionment Information Report.

(a) Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test and the standards-based achievement tests by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.

(2) The number of pupils in each school and in the school district tested with the alternate assessment.

(3) The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.

(4) The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.

(5) The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption.

(b) Annually, each school district shall receive an apportionment information report for the designated primary language test with the following information by grade level for each of grades 2 to 11, inclusive:

(1) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(f).

(2) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(g).

(c) To be eligible for apportionment payment for the designated achievement test, the standards-based achievement tests and/or the designated primary language test, school districts must meet the following conditions:

(1) The school district has returned all secure test materials, and

(2) the superintendent of each school district has certified the accuracy of the apportionment information report for examinations administered during the calendar year (January 1 through December 31), which is either:

(A) postmarked by December 31, or

(B) if postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code section 33050. For those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the testing window began.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a), repealer of subsection (a)(5), subsection renumbering, and amendment of subsections (b)(2) and (c), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Repealer of subsections (c)-(d) filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of subsections (a) and (b)(2) filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment of subsections (a)-(a)(3) and repealer of subsection (a)(5) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
10. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
11. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 863. STAR Student Reports and Cumulative Record Labels.

(a) The school district shall forward the STAR Student Report for the designated achievement test and standards-based achievement tests and the designated primary language test provided by the contractor(s) to each pupil's test to the pupil's parent or guardian, within no more than 20 working days from receipt of the report from the contractor.

(b) If the school district receives the reports for the designated achievement test and standards-based tests, or the designated primary language test from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year.

(c) Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 49068, 60641 and 60607, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (b) filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
6. Amendment of section heading, section and NOTE filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
7. Amendment of subsections (a) and (b) filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 864. Reporting Test Scores.

No aggregate or group scores or reports that are compiled pursuant to Education Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, if the aggregate or group scores or reports are composed of ten or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear “The number of pupils in this category is too small for statistical accuracy or privacy protection.” In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order, including amendment of NOTE, transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of section and NOTE filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
5. Amendment filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 864.5. Test Order Information.

(a) The school district shall provide to the contractor(s), for the designated achievement test and the standards-based achievement tests no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

- (1) Valid county district school (CDS) codes.
- (2) Number of tests.
- (3) Numbers of special version tests including, but not limited to, Braille and large print.
- (4) Number of Directions for Administration needed, by grade level.
- (5) Number of pupils to be tested with the alternate assessment.
- (6) Number of test examiners for the alternate assessment.
- (7) The first and last date of instruction and all non-instructional days during the school year for each school in the district and all non-working days for the school district.

(b) the school district shall provide to the contractor for the designated primary language test, the following data:

- (1) Whether or not the district has eligible pupils for the tests.
- (2) For all tests sites in the district with eligible pupils, by grade level, the information in subdivision (a)(1), (2), (3), and (4).

(c) Each school district that elects pre-identification of answer documents shall submit an electronic file that includes all of the information required in section 861. The file must be submitted in accordance with the timeline, format, and instructions provided by the contractor(s).

(d) If the testing materials are lost or destroyed while in the possession of the school district, and the contractor provides the school district with

replacement materials, the school district is responsible for the cost of all replacement materials.

(e) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests submitted for scoring including tests for non-tested pupils and 90 percent of the materials ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the contractor by the Department as part of the contract for the current year.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 10–26–98 as an emergency; operative 10–26–98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2–23–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–26–98 order transmitted to OAL 2–23–99 and filed 4–6–99 (Register 99, No. 15).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsections (a), (a)(7) and (d) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
7. Amendment of section and NOTE filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
8. Amendment filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 865. Transportation.

(a) Upon arrival of the test materials at a single location designated by each school district, the district STAR coordinator shall provide the contractor with a signed receipt certifying that all cartons were received.

(b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the contractor for return to the contractor.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1–2–98 as an emergency; operative 1–2–98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–2–98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–5–98 as an emergency; operative 5–5–98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–2–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–5–98 order transmitted to OAL 9–2–98 and filed 10–14–98 (Register 98, No. 42).
4. Amendment of subsection (a) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
6. Amendment of section and NOTE filed 8–22–2005; operative 9–21–2005 (Register 2005, No. 34).
7. Amendment of subsections (a) and (c) filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 866. School District Delivery.

(a) No school district shall receive its designated achievement test, standards-based achievement test, or designated primary language test

materials more than twenty or fewer than ten working days prior to the first day of testing in the school district. A school district that has not received test materials from the test contractor at least ten working days before the first date of testing in the school district shall notify the contractor and the Department on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of test materials to single school districts shall use the schedule in section 867.

(b) A school district and the contractor shall establish a periodic delivery schedule to accommodate all test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period.

(c) No school district shall receive its writing test materials more than ten or fewer than five working days before the day on which the writing tests are to be administered.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640, 60642.5 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsection (a), repealer of subsection (b) and subsection relettering filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of section and NOTE filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11-27-2000 order, including further amendment of subsection (b), transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
10. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
12. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 867. Test Site Delivery and Return.

(a) No school or other test site shall receive any designated achievement test, standards-based tests, or designated primary language test or related test materials more than ten or fewer than five working days prior to the first day of testing scheduled at the school or test site.

(b) All testing materials shall be returned to the school district location designated by the district STAR coordinator no more than two working days after testing is completed for each test administration period.

(c) No school or other test site shall receive any writing test materials more than six or fewer than two working days before the test administration date.

(d) Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60642.5, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98

or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of subsections (b)-(c) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 11-27-2000 order, including further amendment of subsection (c), transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
6. Amendment of section heading, section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
7. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 867.5. Retrieval of Materials by Contractor.

(a) The school district shall ensure that designated achievement test, standards-based tests, or designated primary language testing materials are inventoried, packaged, and labeled in accordance with instructions from the contractor, and returned to a single school district location for pickup by the contractor within five working days following completion of testing in the school district and in no event later than five working days after each test administration period.

(b) School districts shall return all writing tests and test materials to the contractor no more than two working days after the makeup day specified for the writing test.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640, 60642.5 and 60643, Education Code.

HISTORY

1. New section filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
3. Repealer of subsection (a) designator, repealer of subsection (b) and amendment of NOTE filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
5. Amendment filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11-27-2000 order, including further amendment of section, transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
7. Amendment of section heading, section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
8. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-Based Achievement Tests, and Designated Primary Language Test.

(a) School districts shall process discrepancies determined by the contractor(s) upon receipt of returned tests and test materials pursuant to this subdivision:

(1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the district STAR coordinator for one or more of the following shall require a response from the district STAR coordinator to the contractor within 24 hours.

(A) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the contractor from the school district.

(B) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing, according to criteria established with the Department.

(2) The district STAR coordinator shall acknowledge the discrepancy notice via electronic mail, if available in the school district, to the contractor and to the Department within 24 hours of its receipt via electronic mail.

(b) The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two working days of the school district report, the school district shall notify the Department within 24 hours.

(c) Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or designated primary language test or test materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two working days.

(d) The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to the test site within two working days of the notification by the district STAR coordinator.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing and by electronic mail.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsections (c) and (d), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of section and NOTE filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
6. Amendment of subsection (c) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
8. Amendment of section heading, section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
9. Amendment of section heading and section filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 869. Performance of Designated Achievement Test Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment of section heading and section filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order, including further amendment of section, transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by

4-14-2000 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 870. Apportionment to School Districts.

(a) The amount of funding to be apportioned to the school district for the costs of administering the designated achievement test, the standards-based achievement tests, and the designated primary language test shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering the designated achievement test, the standards-based achievement tests, and the designated primary language test per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, and the number of answer documents returned with only demographic information for the designated achievement test and the standards-based achievement tests for pupils enrolled on the first day of testing who were not tested in the school district. The number of tests administered and the number of demographic answer documents shall be determined by the certification of the school district superintendent pursuant to section 862. For purposes of this portion of the apportionment, administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test includes the following items:

- (1) All staffing costs, including the district STAR coordinator and the STAR test site coordinators, staff training and other staff expenses related to testing.
- (2) All expenses incurred at the school district and test site level related to testing.
- (3) All transportation costs of delivering and retrieving tests and test materials within the school district and to nonpublic schools.
- (4) All costs associated with mailing the STAR Student Reports to parents/guardians.
- (5) All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required in section 861 of these regulations.
- (b) This amount does not include any funding for the purposes of:
 - (1) reimbursing the costs incurred by any school district pursuant to section 864.5(d) or (e);
 - (2) reimbursing any school district for designated primary language tests for non-eligible pupils; and
 - (3) reimbursing any school district for designated achievement tests for non-eligible pupils.

(c) If at the time a school district's scannable documents are processed by the contractor a student data record is missing any of the data elements required in section 861 of these regulations for the designated achievement test or the standards-based achievement tests, the school district shall provide the missing data elements within the time required by the contractor to process the documents and meet the contractor's schedule of deliverables under its contract with the Department. The additional costs incurred by the school district to have the contractor reprocess the student information to acquire the data required by section 861 of these regulations shall be withheld from the school district's apportionment.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (a)(2)(A), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Repealer of subsections (b)-(b)(2)(E) and subsection relettering filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Amendment of section heading and section filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
8. Amendment of subsection (a), redesignation and amendment of former subsection (b)(1) as subsection (b) and repealer of subsection (b)(2) filed 11-27-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5-1-2001 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 11-27-2000 order transmitted to OAL 3-28-2001 and filed 5-9-2001 (Register 2001, No. 19).
10. Amendment of section and NOTE filed 8-22-2005; operative 9-21-2005 (Register 2005, No. 34).
11. Amendment filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 871. Payment of Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of section, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order, including further amendment of section, transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 872. Performance Bond.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640-60643 and 60646, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsection (b), transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 873. Standard Agreement Form for the Designated Achievement Test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the Department of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5-5-98 order, including amendment of subsections II., III., VI., X-XII., XIV. and XIX. and amendment of NOTE, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
4. Amendment filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10-26-98 order, including further amendment of section, transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).
6. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 874. Delivery Schedule and Order Form.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section adopted by the State Board of Education and filed 1-2-98 as an emergency; operative 1-2-98 (Register 98, No. 1). A Certificate of Compliance must be transmitted to OAL by 5-2-98 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-5-98 as an emergency; operative 5-5-98 (Register 98, No. 19). A Certificate of Compliance must be transmitted to OAL by 9-2-98 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of subsection 3. (Register 98, No. 42).
4. Certificate of Compliance as to 5-5-98 order, including amendment of section, transmitted to OAL 9-2-98 and filed 10-14-98 (Register 98, No. 42).
5. Repealer filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).

§ 875. School District Liability.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60603(j), 60604(a) and 60613, Education Code.

HISTORY

1. New section filed 10-14-98; operative 10-14-98 (Register 98, No. 42).
2. Repealer filed 10-26-98 as an emergency; operative 10-26-98 (Register 98, No. 44). A Certificate of Compliance must be transmitted to OAL by 2-23-99 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-98 order transmitted to OAL 2-23-99 and filed 4-6-99 (Register 99, No. 15).

Article 2.5. Golden State Seal Merit Diploma

§ 876. Golden State Seal Merit Diploma.

For the purposes of the Golden State Seal Merit Diploma:

(a) "Demonstration of mastery" or "demonstrate mastery" means earning a scaled score of 370 or above on a California Standards Test (CST), as set forth in Education Code Section 60642.5, or a performance level of recognition, honors, or high honors on a Golden State Examination (GSE).

(b) Mastery must be demonstrated on six separate GSEs or high school level CSTs, not including the Algebra I CST, General Mathematics CST, and Integrated Mathematics 1 CST.

(c) Students may not use both a CST and the GSE in the same course of study to demonstrate mastery of the curriculum under Education Code Section 51452.

NOTE: Authority cited: Sections 33031, 51450 and 51451, Education Code. Reference: Sections 51450, 51451 and 51452, Education Code.

HISTORY

1. New section filed 4-22-2004; operative 4-22-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 17).

Article 3. Designated Primary Language Test

§ 880. Pupil Testing.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New article 3 (sections 880–904) and section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (c) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsection (a) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
7. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 881. Pupil Exemptions.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60615 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 882. Administration.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 883. Advance Preparation for Test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60611 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (a) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 884. Testing Period.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Amendment of subsection (c) filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).
5. Amendment of subsection (a) filed 11–27–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 5–1–2001 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 11–27–2000 order transmitted to OAL 3–28–2001 and filed 5–9–2001 (Register 2001, No. 19).
7. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 885. Sales and Use Tax.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code; and Sections 6051 et seq. and 6201 et seq., Revenue and Tax Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 12–16–99 as an emergency; operative 12–16–99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–14–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–16–99 order transmitted to OAL 4–14–2000 and filed 5–26–2000 (Register 2000, No. 21).

§ 886. STAR Program District Coordinator.

NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer of section and amendment of NOTE filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 887. STAR Test Site Coordinator.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60630 and 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 888. STAR Test Security Agreement and Test Security Affidavit.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60640, Education Code.

HISTORY

1. New section filed 1–4–99 as an emergency; operative 1–4–99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–4–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–4–99 order transmitted to OAL 5–4–99 and filed 6–14–99 (Register 99, No. 25).
3. Repealer filed 11–8–2006; operative 12–8–2006 (Register 2006, No. 45).

§ 889. Standard Agreements Between School Districts and Publisher(s).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 899. Discrepancy Resolution for Designated Primary Language Test(s).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Amendment of section and NOTE filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
5. Repealer filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 900. Performance of Designated Primary Language Test Publisher(s).

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 901. Apportionment.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Amendment filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).
5. Repealer filed 11-8-2006; operative 12-8-2006 (Register 2006, No. 45).

§ 902. Payment of Publisher.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640 and 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 903. Performance Bond.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Sections 60640-60643 and 60646, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

§ 904. Standard Agreement Form for Any Designated Primary Language Test.

NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code. Reference: Section 60643, Education Code.

HISTORY

1. New section filed 1-4-99 as an emergency; operative 1-4-99 (Register 99, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-4-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1-4-99 order transmitted to OAL 5-4-99 and filed 6-14-99 (Register 99, No. 25).
3. Repealer filed 12-16-99 as an emergency; operative 12-16-99 (Register 99, No. 51). A Certificate of Compliance must be transmitted to OAL by 4-14-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-16-99 order transmitted to OAL 4-14-2000 and filed 5-26-2000 (Register 2000, No. 21).

Subchapter 3.8. Quality Education Investment Act of 2006

§ 1000. Eligibility, Assignment of Random Order, and Determination of Program Option. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 52055.720, 52055.740 and 52055.760, Education Code.

HISTORY

1. New subchapter 3.8 (sections 1000-1000.7) and section filed 2-8-2007 as an emergency; operative 2-8-2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-8-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer of subchapter 3.8 (sections 1000-1000.7) and section by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.1. Submission of Applications Under Education Code Section 52055.740. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52055.740 and 52055.750, Education Code.

HISTORY

1. New section filed 2-8-2007 as an emergency; operative 2-8-2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-8-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.2. Submission of Applications Under Education Code Section 52055.760. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44757.5, 52055.740, 52055.750 and 52055.760, Education Code.

HISTORY

1. New section filed 2-8-2007 as an emergency; operative 2-8-2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-8-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.3. Submission of Applications for Priority Approval. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52055.740 and 52055.760, Education Code.

HISTORY

1. New section filed 2-8-2007 as an emergency; operative 2-8-2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-8-2007 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.4. Review of Applications. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44757.5, 52055.720, 52055.730, 52055.740, 52055.750 and 52055.760, Education Code.

HISTORY

1. New section filed 2–8–2007 as an emergency; operative 2–8–2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–8–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.5. Selection of Schools for Funding. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52055.730, 52055.740, 52055.760 and 52055.770, Education Code.

HISTORY

1. New section filed 2–8–2007 as an emergency; operative 2–8–2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–8–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.6. Geographic Distribution by County and Distribution by Grade Span. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52055.730, Education Code.

HISTORY

1. New section filed 2–8–2007 as an emergency; operative 2–8–2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–8–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

§ 1000.7. Definitions. [Repealed]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52055.650, 52055.720, 52055.740 and 52055.760, Education Code.

HISTORY

1. New section filed 2–8–2007 as an emergency; operative 2–8–2007 (Register 2007, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–8–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2007, No. 39).

Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures*

*For “vision screening” testing for pupils, see Sections 590–596.

Article 1. Achievement Testing Programs

§ 1020. Definitions.

HISTORY

1. Repealer filed 7–20–73; effective thirtieth day thereafter (Register 73, No. 29). For prior history, see Register 71, No. 30.
2. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1021. Tests and Procedures.

(a) Each pupil in grade 1 shall be given the entry level test adopted or developed by the State Board of Education at a time specified by the State Department of Education, but not later than the third month of attendance in the first grade.

(b) Each pupil in grades 3, 6, and 12 shall be given the achievement test adopted or developed for the respective grade by the State Board of Education at the times designated for each grade by the State Department of Education.

(c) The adopted tests shall be administered to pupils by school districts in accordance with procedures established by the State Department of Education for the tests. Test answer sheets shall be submitted to the State

Department of Education for scoring on dates specified and according to procedures established by the Department for each grade.

(d) After the tests have been given, the school principal shall certify that the tests were given in accordance with the procedures established for the test, and that all answer sheets have been returned to the State Department of Education for scoring.

(e) In nongraded primary sections, pupils shall be certified as first or third grade pupils for purposes of official enrollment, and are deemed, for purposes of this article, to be enrolled in the respective grade for which they are so certified.

(f) Pupils enrolled in grades 1, 3 and 6 in a school maintaining a year-round program shall be tested when they have completed approximately the same number of weeks of school as pupils who are in regular programs.

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607 and 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history see Register 74, No. 52.
2. Repealer and new section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1022. Recording Test Scores.

Scores for individual pupils on these tests shall not be used by school districts or teachers for individual diagnosis or placement, or as a basis for any other decisions which would affect the pupil’s school experience. Scores from these tests shall not in any manner be included on a pupil’s cumulative school record.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023. Security of Test Material.

In order to afford protection to the security and reliability of the tests given pursuant to this article, all officers and employees of the district and other persons concerned with the state testing program shall take all reasonable precautions to prevent pupils from learning in advance of the specific content of the tests.

HISTORY

1. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).

§ 1023.1. Practice Exercises.

No practice exercises other than those specifically designated or approved by the State Department of Education shall be given to pupils in preparation for the testing program or in the particular test used.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1024. Responsibility of the County Superintendent of Schools.

The county superintendent is requested to cooperate with and give assistance to each school district under his jurisdiction which seeks such assistance from him in carrying out duties imposed on it by Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code. In addition for any district which does not have a district superintendent, the county superintendent shall make certain that the tests are administered in accordance with these regulations and with the instructions and testing procedures developed for the tests.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. Amendment filed 9–25–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
3. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1025. Related Information.

Each school district superintendent shall furnish to the State Department of Education such other pupil and school information that is requested by the Department in order to carry out the provisions of Chapter 5 of Part 33 of Division 4 of Title 2 of the Education Code and to properly analyze and evaluate the test results as required by Sections 60604.5 and 60660 of the Education Code.

NOTE: Authority cited: Sections 33031, 60603, 60640, Education Code. Reference: Sections 60600–60614 and 60640–60644, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 11–29–79; effective thirtieth day thereafter (Register 79, No. 48).

§ 1026. Reporting Test Results.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60607 and 60640, Education Code.

HISTORY

1. New section filed 12–26–74; effective thirtieth day thereafter (Register 74, No. 52).
2. Amendment filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
3. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer filed 11–29–84; effective thirtieth day thereafter (Register 84, No. 48).

Article 1.5. Education Improvement Incentive Program

§ 1030. Computation of Change in a School's Performance.

(a) The formula in subsection (b) shall be applied by the State Department of Education to all secondary schools eligible to compete in the Education Improvement Incentive Program and whose performance in the prior fiscal year has decreased from that in the next preceding fiscal year. All schools with a 12th grade enrollment of 50 students or fewer and all continuation education schools are excluded from the computation.

(b) The formula:

(1) Subtract the school's prior year composite score on the California Assessment Program (CAP) from the current year score to compute a change score.

(2) Regress the number of students tested in CAP and the square of the number of students tested onto the change score using a standard multiple regression procedure.

(3) Using the results of the multiple regression, compute a predicted change score.

(4) Subtract the actual change score obtained by the school from the predicted change score to obtain a residual.

(5) Studentize the residual to have a mean of zero and a standard deviation of 1.

(6) Identify those schools which have a studentized residual equal to or less than minus 1.5. A studentized residual is the ratio of the residual to its standard error after the model has been fit and predicted change scores and residuals calculated. The predicted change scores are calculated from the estimated regression equation. The residuals are calculated as actual minus predicted.

(7) For those schools identified in paragraph (6) of this subsection, the incentive award for the current year shall be based on the improvement in performance between the current year and the 1983–84 fiscal year or the fiscal year in which the school first participated in the incentive program.

(c) Any school whose incentive award is adversely affected by a calculation pursuant to subdivision (b) may appeal to the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 54653.6, Education Code. Reference: Section 54653.6, Education Code.

HISTORY

1. New section filed 5–1–87; operative 5–31–87 (Register 87, No. 20).

Article 1.6. Immediate Intervention/Underperforming Schools Program (II/USP) and High Priority Schools Grant Program (HPSGP): Definition of Significant Growth and Criteria to Determine Academic Growth for II/USP and HPSGP Schools Without Valid API's

§ 1030.5. Definition of Significant Growth for II/USP Schools.

A school participating in the Immediate Intervention/Underperforming Schools Program (II/USP) of Education Code sections 52053 through 52055.55 achieves "significant growth" as that term is used in Education Code sections 52055.5 and 52055.55 when its schoolwide Academic Performance Index (API) growth is greater than zero and the school does not achieve its API growth target pursuant to Education Code section 52052(c).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 52053, 52054, 52055.5 and 52055.55, Education Code.

HISTORY

1. New article 1.6 (sections 1030.5–1030.8) and section filed 7–28–2005; operative 8–27–2005 (Register 2005, No. 30).

§ 1030.6. Criteria to Demonstrate Significant Growth for II/USP Schools Without Valid APIs.

Schools participating in the II/USP without a valid API score pursuant to Education Code section 52052(f) demonstrate academic growth equivalent to significant growth for purposes of Education Code sections 52055.5 and 52055.55 when the weighted average percent proficient across all California Standards Tests in (a) English/language arts and (b) mathematics increased by at least one percentage point from the prior year to the year in which they have an invalid score. For purposes of this calculation, there shall be no rounding (e.g., 0.99 does not round up to 1.00).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 52053, 52054, 52055.5 and 52055.55, Education Code.

HISTORY

1. New section filed 7–28–2005; operative 8–27–2005 (Register 2005, No. 30).

§ 1030.7. Definition of Significant Growth for HPSGP Schools.

(a) A school participating in the High Priority Schools Grant Program (HPSGP) of Education Code sections 52055.600 through 52055.662 achieves "significant growth" as that term is used in Education Code sections 52055.650 when its combined growth is equal to or greater than ten Academic Performance Index (API) points on the API over the last three years it participates in the program and also achieves positive API growth in two of the last three years.

(b) A school without a valid API score pursuant to Education Code section 52052(f) in any year of participation in the program demonstrates positive API growth for that year when the school's weighted average percent proficient increases by at least one percentage point from the prior year across all California Standards Tests in (a) English/language arts, and (b) mathematics. For purposes of this calculation, there shall be no rounding (e.g. 0.99 does not round up to 1.00).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 52055.600, 52055.640, 52055.645 and 52055.650, Education Code.

HISTORY

1. New section filed 7–28–2005; operative 8–27–2005 (Register 2005, No. 30).
2. Designation of existing section as subsection (a) and new subsection (b) filed 8–15–2006; operative 9–14–2006 (Register 2006, No. 33).

§ 1030.8. Criteria to Demonstrate Academic Growth Equivalent to Significant Growth for HPSGP Schools Without Valid APIs.

A school without a valid API in at least one year that does not demonstrate significant growth as defined in section 1030.7, demonstrates academic growth equivalent to significant growth for purposes of Education Code section 52055.650 when the school's weighted average percent proficient across all California Standards Tests in (a) English/language arts and (b) mathematics increased by at least two percentage points over the prior three year period. For purposes of this calculation, there shall be no rounding (e.g., 0.99 does not round up to 1.00).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 52055.600, 52055.640, 52055.645 and 52055.650, Education Code.

HISTORY

1. New section filed 7-28-2005; operative 8-27-2005 (Register 2005, No. 30).
2. Amendment of section heading and section filed 8-15-2006; operative 9-14-2006 (Register 2006, No. 33).

Article 1.7. Award Programs Linked to the Academic Performance Index (API)

§ 1031. Intent of the Regulations.

(a) The Academic Performance Index (API) measures the performance of California public schools, especially the academic performance of pupils, and demonstrates comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools pursuant to Education Code section 52052 and the Framework for The Academic Performance Index, July 1999 and The 1999 Base Year Academic Performance Index, December 15, 1999, which are incorporated herein.

(b) The purpose of Article 1.7 is to implement the programs established by two statutes relating to the API:

(1) The Governor's Performance Award Program of the Public Schools Accountability Act of 1999 (Education Code sections 52050 et seq.).

(2) The Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New article 1.7 (sections 1031-1038) and section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (b), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Amendment of subsection (b), repealer of subsection (b)(3) and amendment of NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

§ 1032. General Eligibility Criteria for Award Programs Related to API Growth.

(a) For purposes of this Article, "schools" shall be defined as all schools, including charter schools, that receive a ranking on the API including schools participating in the Immediate Intervention/Underperforming Schools Program. These schools are eligible to participate in the award programs identified in Section 1031.

(b) For the purposes of these award programs, the API shall be the measure of accountability for all schools, except those that fall under the

alternative accountability system, once such a system is adopted by the State Board of Education as required by Education Code section 52052(g). The Superintendent of Public Instruction will develop an alternative accountability system for schools with fewer than 100 valid test scores, schools that fall under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and alternative schools, including continuation high schools and independent study schools.

Alternative schools may elect to be part of the API accountability system for the purposes of awards and interventions pursuant to the API. If the school elects to be part of the API accountability system, the school shall remain in the system for at least the three subsequent years.

(c) For the purposes of these award programs, growth API means the API in the second year of two consecutive years for which the API is calculated.

(d) In 2001 and subsequent years, a school's API shall be considered invalid under any of the following circumstances:

(1) The local educational agency notifies the California Department of Education (department) that there were adult testing irregularities at the school affecting 5% or more of the pupils tested.

(2) The local educational agency notifies the department that the API is not representative of the pupil population at the school.

(3) The local educational agency notifies the department that the school has experienced a significant demographic change in pupil population between the base year and growth year, and that the API between years is not comparable.

(4) The school's proportion of parental waivers compared to its Standardized Testing and Reporting Program (STAR) enrollment, pursuant to Education Code section 60640 et seq., is equal to or greater than 15 percent for the 2000 STAR. For the 2001 STAR and each subsequent STAR, the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent, except when the school's proportion of parental waivers compared to its STAR enrollment is equal to or greater than 10 percent but less than 20 percent. In this case, the department will conduct standard statistical tests to determine whether the pupils tested at the school represent the school's pupils by grade level. If the standard statistical tests demonstrate that the pupils tested represent the school's pupils, then the school's API shall be considered valid. If the standard statistical tests demonstrate that the pupils tested do not represent the school's pupils, then the school's API shall be considered invalid. There shall be no rounding in determining this minimum parental waiver proportion (i.e., 9.99 percent is not 10 percent).

(5) In any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the school's proportion of the number of test-takers in that content area compared with the total number of test-takers is less than 85 percent. There shall be no rounding in determining the proportion of test-takers in each content area (i.e., 84.99 percent is not 85 percent).

(6) If, at any time, information is made available to or obtained by the department that would lead a reasonable person to conclude that one or more of the preceding circumstances occurred. If after reviewing the information, the department determines that further investigation is warranted, the department may conduct an investigation to determine if the integrity of the API has been jeopardized.

The department may invalidate or withhold the school's API until such time that the department has satisfied itself that the integrity of the API has not been jeopardized.

(e) If a school's API is considered invalid pursuant to subdivisions (d)(1), (d)(2), (d)(4), or (d)(5), the school is ineligible for participation in any of the award programs for the current and subsequent year. If a school does not receive an API pursuant to subdivision (d)(3), the school is ineligible for participation in any of the award programs for the current year only.

(f) If fewer than 5% of the pupils tested are affected by adult testing irregularities, the school will receive a valid API, however, the school is not eligible for participation in any of the award programs for the current year.

(g) All schools that have an API score increase of at least 5% of the difference between the school's prior year score and 800 or an API score increase of five points, whichever is greater, and have comparable improvement as defined in subdivision (h), and meet the minimum participation rate in subdivision (i), shall be recognized through the Governor's Performance Award Program.

(h) Comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) shall be defined as an API score increase of at least 80% of the school's API growth target as established pursuant to Education Code section 52052 except when the sum of a subgroup's growth target and the subgroup's API is greater or equal to 800. In these cases, comparable improvement shall be defined as the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 4 points.

(i) For elementary and middle schools, the minimum participation rate for the awards programs shall be 95 percent; for high schools, it shall be 90 percent, with the intention of increasing this rate to 95 percent in the future.

(1) If the test publisher determines, for grades 2 to 11, that a pupil did attempt to take any content area tested pursuant to Education Code sections 60642 and 60642.5 and included in the API, the pupil shall be counted as a test-taker.

(2) No pupil shall be counted more than once as a test-taker.

(3) The participation rate shall be calculated as follows:

(A) Divide the total number of test-takers in grades 2–11 at the school site by

(B) The total enrollment in grades 2–11 minus the number of pupils exempted from taking the test either by their Individualized Education Program (IEP) pursuant to Education Code section 60640(e) or parental waivers pursuant to Education Code section 60615.

(4) For purposes of subdivision (3)(B) above, enrollment shall be determined by the enrollment information collected by the department as part of the Standardized Testing and Reporting Program (STAR), pursuant to Education Code sections 60640 et seq.

(5) In the case of pupil testing irregularities, the scores of affected pupils shall be eliminated from the calculations of the school's growth API, although the pupils are counted as tested and shall contribute to the school's participation rate.

(6) There shall be no rounding in determining this minimum participation rate (i.e., 94.9 percent does not equal 95 percent).

(j) The department will publish on its web site a report of STAR testing and demographic data used in the calculation and reporting of the API. Prior to publishing the report on its web site, the department will announce the report in writing and/or by electronic communication to each local educational agency that appears in the API report. The local educational agency must notify the department and the test publisher via e-mail or in writing whether there are errors in the STAR testing or demographic data. The local education agency's notification must be received by the department and the test publisher within thirty (30) calendar days of the initial date of publication of the STAR testing and demographic data on the department's web-site. The local educational agency must submit all data corrections to the test publisher in writing or e-mail. The test publisher shall specify a deadline for submittal of the data corrections

that is no less than forty-five (45) calendar days after the date of publication of the STAR testing and demographic data.

(k) The criteria for awards eligibility based on the 2001 growth API for a school that had its 2000 API invalidated solely because of excessive parental waivers pursuant to subdivision (d)(4) or for a school whose school district obtained a State Board of Education waiver of Section 1032(c) on their behalf will be (1) twice the school's 1999 growth target or 10 points, whichever is greater, and (2) comparable improvement for numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a), and the school has met all other 2001 eligibility criteria. Comparable improvement shall be defined as twice the 1999 subgroup target for each subgroup, except when the sum of a subgroup's 1999 growth target and the subgroup's 1999 API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's 1999 API to 800. In no case shall comparable improvement be less than 8 points. While being eligible for the Governor's Performance Awards, such a school would not be eligible for awards under the Certificated Staff Performance Incentive Act (Education Code sections 44650 et seq.).

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. New subsection (d)(4) and subsection renumbering filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including further amendments, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
4. Amendment of subsections (d)(4), (d)(6) and (h)(1) and new subsection (j) filed 8–2–2001 as an emergency; operative 8–2–2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 11–30–2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section heading and new subsection (i) filed 11–15–2001; operative 11–15–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 46).
6. Certificate of Compliance as to 8–2–2001 order, including further amendment of section and NOTE, transmitted to OAL 11–21–2001 and filed 1–8–2002 (Register 2002, No. 2).

§ 1033. Award Funding Criteria for Governor's Performance Award Program.

(a) Schools that meet the eligibility requirements in 2000–01 for the Governor's Performance Award Program (GPA) shall receive a per pupil award amount for each of their eligible pupils. Eligible pupils are those who received a score on any subject matter area test (Total Reading, Total Math, Language, Spelling, Science, or Social Science) of the nationally normed test pursuant to Education Code section 60642 and a score on any standards-based achievement test pursuant to Education Code section 60642.5. A score on the nationally normed test pursuant to Education Code section 60642 can be a percentile, the number correct, a scale score, or a normal curve equivalent. A score on the standards-based achievement test pursuant to Education Code section 60642.5 is defined as the performance level.

(b) The amount allocated for this award shall be determined on a prorate basis from the total amount of funding available in the annual State Budget.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Section 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (a)(3) and (b) and new subsections (b)(1)–(5) filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A

Certificate of Compliance must be transmitted to OAL by 5-30-2001 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-28-2000 and 1-30-2001 orders, including new subsection (b)(6), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
4. Amendment of section heading and subsection (a), repealer of subsections (a)(1)-(3), redesignation and amendment of former subsection (a)(4) as subsection (b), renumbering of former subsections (b)-(b)(6) to section 1034, subsections (b)-(c) and new NOTE filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

§ 1034. Specific Eligibility Criteria for the Certified Staff Performance Incentive Act.

(a) To be eligible to receive awards under the Certified Staff Performance Incentive Act, school sites must have attained a statewide decile rank of 1-5 in the base year of the current growth API and must meet all of the relevant statutory requirements and each of the following requirements:

(1) Each school site must have improved by a minimum of two times its annual growth target on its API between the base year and the current growth year.

(2) All numerically significant ethnic or socioeconomically disadvantaged subgroups pursuant to Education Code section 52052(a) at a school must have improved by a minimum of two times their annual growth targets, except when the sum of a subgroup's growth target and the subgroup's API is greater than or equal to 800. In these cases, comparable improvement shall be defined as two times the distance from the subgroup's API to 800. In no case shall comparable improvement be less than 8 points.

(3) Each school site shall have the required participation rate for the current growth API, pursuant to Section 1032(i), as calculated by the California Department of Education. Each school must have been eligible for API awards in the year preceding the current API growth year.

(4) The local educational agency must complete an application on behalf of its eligible schools, which shall include:

(A) Certification that the data used in the API calculations from the schools is accurate, and

(B) The number of certificated positions on an FTE basis at each of the eligible schools pursuant to subdivision (b) below.

(b) To participate in the Certificated Staff Performance Incentive Act (CSPIA) awards, school districts and charter schools shall certify, as appropriate, the number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment for the year in which the award was earned at each school site under their jurisdiction that is eligible for awards in accordance with Education Code section 44651.

(1) The "number of full-time equivalent (FTE) certificated employees employed by the school district or charter school, whether still resident in the school district or not, as of the second principal apportionment" shall be defined as the number of funded certificated FTE positions at the school site as of the date established annually by the department pursuant to Education Code sections 41335 and 41601 for the submission by school districts of the attendance documents necessary for the department to prepare the second principal apportionment.

(2) "Employees at the school site" shall be defined as positions filled by individuals employed by the school district or charter school at least 50 percent of the school year in which the award was earned, and who spent at least 50 percent of his/her total annual work hours at school sites, and who spent at least 20 percent of his/her total annual work hours at the eligible school site working with pupils in any of grades K-12. County office of education and state employees are not eligible to participate.

(3) "Full-time equivalent (FTE) positions" may include "full-time" and "part-time" positions. A "full-time" certificated position shall be defined as a position filled by a person that is required to work a minimum of a six hour work day. Workdays longer than six hours, if in accordance with local collective bargaining agreements, should be used as the basis for "full-time" and "part-time" FTE calculation. One person cannot gen-

erate more than one FTE position. Part-time positions shall generate a partial FTE on a proportional basis.

(4) "Certificated employee" shall be defined as an employee in a position requiring certification and who holds a document issued by the California Commission on Teacher Credentialing authorizing service in the public schools of California.

(5) "Document" shall be defined as a credential, emergency permit, or waiver issued by the California Commission on Teacher Credentialing.

(c) Starting in 2001-02, the deadline for submitting the application, including the certification of FTEs to the department shall be within the close of business on the 45th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Certificated Staff Performance Incentive Act award. If a school's application is not received by the department by the deadline, the school will not receive the award.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650-44652 and 44654(b), Education Code.

HISTORY

1. New section filed 12-28-2000 as an emergency; operative 12-28-2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-27-2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-28-2000 order, including amendment of subsection (d)(3), transmitted to OAL 4-27-2001 and filed 6-11-2001 (Register 2001, No. 24).
3. Repealer of former section 1034, new subsections (a)-(a)(4)(B), and renumbering and amendment of former section 1033, subsections (b)-(b)(6) to section 1034, subsections (b)-(c) filed 1-8-2002; operative 1-8-2002 (Register 2002, No. 2).

§ 1035. Award Funding Criteria for Certificated Staff Performance Incentive Act.

Distribution of Certificated Staff Performance Incentive Act awards pursuant to the 2000 growth API shall be as follows, with at least one thousand (1,000) \$25,000 awards, three thousand seven hundred fifty (3,750) \$10,000 awards and up to seven thousand five hundred (7,500) \$5,000 awards being distributed in the process. The total amount of funding for this Act provided in the annual State Budget shall be distributed proportionally across each of elementary, middle, and high schools statewide by the number of certificated staff as reported in the most current CBEDS report.

(a) Schools will be declared eligible or ineligible according to the rank of schools pursuant to Education Code section 52052. An "eligible list" will be determined for each type of school (elementary, middle, and high) for the awards distribution.

(b) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff in certificated positions at that school. The number of FTE positions counted shall be subtracted from the awards pool of 1,000 FTE positions.

(c) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$25,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(d) This process shall continue until all 1,000 \$25,000/FTE awards have been allocated to the eligible school sites. If, before all 1,000 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 1,000 FTE awards pool, all of that school site's FTE positions shall receive \$25,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over its API growth target in the prior year shall receive \$25,000 awards.

(e) Beginning with the school on each of the three "eligible lists" with the greatest raw score API improvement over two times its annual target that did not receive \$25,000 rewards, the Superintendent of Public

Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool of 3,750 \$10,000 awards.

(f) Beginning with the school on each of the three "eligible lists" with the next greatest raw score API improvement over two times its annual target, the Superintendent of Public Instruction shall apportion \$10,000 per certificated school site staff FTE position to be distributed to the certificated school site staff at that school. The number of FTE positions counted shall be subtracted from the awards pool remainder.

(g) This process shall continue in consecutive order until all 3,750 \$10,000/FTE awards have been allocated to the school sites. If, before all 3,750 awards have been allocated, an eligible school site has more eligible FTE positions than remain in the 3,750 FTE pool, all of that school site's FTE positions shall receive \$10,000 awards. If more than one school site has an identical score in this circumstance, the school with the greatest improvement over its API growth target in the prior year shall receive \$10,000 awards.

(h) The sum of the awards distributed under subdivisions (b) through (g) shall be subtracted from \$100 million, and the remainder shall be divided by \$5,000 to determine the maximum number of \$5,000 awards to be distributed. The \$5,000 awards shall be distributed in the same manner as the \$25,000 and the \$10,000 awards, with the exception that the distribution process will end when the pool of available \$5,000 awards is not sufficient to fully fund the eligible FTE positions of the next school or schools in line for the awards.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of NOTE (Register 2001, No. 4).
3. Amendment of subsections (d) and (g) filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including further amendments, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
5. Amendment of subsections (d) and (g) filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1036. Waiver Deadline.

Starting in 2000–01, the deadline for submitting to the department a waiver of any of Sections 1031 through 1039 shall be no later than the close of business on the 60th calendar day after the department's posting on its website of the certified list of schools eligible to receive the Governor's Performance Award.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order, including amendment of subsection (a), transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1037. Exemption from Statutory Benefits Calculations.

Certificated Staff Performance Incentive Act awards shall not be considered compensation for the purposes of calculating retirement benefits or contributions, or for any other benefit that an employee is eligible to receive where the benefit or contribution amount is calculated based on compensation.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Section 44654(b), Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–28–2000 order transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1038. Exemption from Indirect Costs.

Governor's Performance Awards and Certificated Staff Performance Incentive Act awards shall not be subject to school district, county, or school indirect charges or other administrative charges.

NOTE: Authority cited: Sections 33031, 44650(b) and 52057(a), Education Code. Reference: Sections 44650–44652, 44654(b), 52052 and 52057, Education Code.

HISTORY

1. New section filed 12–28–2000 as an emergency; operative 12–28–2000 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–27–2001 or emergency language will be repealed by operation of law on the following day.
2. Renumbering of former section 1038 to section 1039 and new section 1038 filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–28–2000 and 1–30–2001 orders, including amendment of NOTE, transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
4. Amendment of section and NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

§ 1039. Use of Award Funds Allocated to School Sites.

Use of funds at the school site for the Governor's Performance Award Program shall be decided by the existing school site governance team/school site council representing major stakeholders and then ratified by the governing board of each local educational agency.

NOTE: Authority cited: Sections 33031 and 52057(a), Education Code. Reference: Sections 52052 and 52057, Education Code.

HISTORY

1. Renumbering of former section 1038 to section 1039 filed 1–30–2001 as an emergency; operative 1–30–2001 (Register 2001, No. 5). A Certificate of Compliance must be transmitted to OAL by 5–30–2001 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–30–2001 order transmitted to OAL 4–27–2001 and filed 6–11–2001 (Register 2001, No. 24).
3. Amendment of section and NOTE filed 1–8–2002; operative 1–8–2002 (Register 2002, No. 2).

Article 2. Physical Performance Testing Programs

§ 1040. Definitions.

For the purpose of the physical performance test required by Education Code section 60800, and also referred to as the Physical Fitness Test (PFT), the following definitions shall apply:

(a) "Accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores.

(b) "Annual assessment window" begins on February 1 and ends on May 31 of each school year.

(c) "Block schedule" is a restructuring of the school day whereby pupils attend half as many classes, for twice as long.

(d) "District Physical Fitness Test Coordinator" is an employee of the school district designated by the superintendent of the district to oversee the administration of the PFT within the district.

(e) "*FITNESSGRAM*®" November, 2005, is the California Physical Fitness Test designated by the State Board of Education (SBE), a document incorporated by reference.

(f) "Grade" for the purpose of the PFT means the grade assigned to the pupil by the school district at the time of testing.

(g) "Modification" means any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores.

(h) "Pupil" is a person in grades 5, 7 or 9, enrolled in a California public school or placed in a non-public school through the individualized education program (IEP) process pursuant to Education Code section 58365.

(i) "School district" includes elementary, high school, and unified school districts, county offices of education, any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter, and any charter school chartered by the SBE.

(j) "Test administration manual" is the Updated Third Edition FITNESSGRAM/ACTIVITYGRAM, a document incorporated by reference. A copy is available for review from CDE staff in the Standards and Assessment Division.

(k) "Test examiner" is an employee of the school district who administers the PFT.

(l) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to accommodations and modifications.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60603 and 60608, Education Code.

HISTORY

1. Repealer filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. New NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of section heading, new section and amendment of NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1041. Required Program.

(a) During the annual assessment window, the governing board of each school district maintaining grades 5, 7, and 9, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test, *FITNESSGRAM*®, designated by the State Board of Education. This includes pupils who attend schools that are on a block schedule and whose pupils may not be enrolled in physical education classes during the annual assessment window.

(b) All pupils in grades 5, 7 and 9 shall only take the test once during the annual assessment window.

(c) School districts shall test all pupils in alternative education programs conducted off the regular school campus, including, but not limited to continuation schools, independent study, community day schools, and county community schools.

(d) No test shall be administered in a home or hospital except by a test examiner. No test shall be administered to a pupil by the parent or guardian of that pupil.

(e) Pupils shall be tested in each fitness component included in the PFT unless exempt by the pupil's IEP or Section 504 plan.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60615 and 60800, Education Code.

HISTORY

1. Amendment filed 9-25-69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment filed 5-18-72; effective thirtieth day thereafter (Register 72, No. 21).
3. Amendment filed 5-11-89 and 5-15-89; operative 5-15-89 (Register 89, No. 20).
4. Amendment of section and NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1042. Recommended Program.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60605, Education Code.

HISTORY

1. Repealer of section and new NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043. Methods of Administration.

(a) The tests shall be administered and scored by employees of the district or the employees of the county superintendent of schools. The scoring thereof shall be in compliance with the instructions of the publisher or developer for scoring, and the scores shall be submitted to the govern-

ing board of the school district on the dates required by, and on forms prescribed or approved by, such governing board.

(b) Districts may provide an alternative date for make-up based on absence or temporary physical restriction or limitations (e.g., recovering from illness or injury).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043.2. Test Administration Training.

(a) For valid results, districts shall use the test administration manual provided for the test designated by the SBE.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043.4. District Physical Fitness Test Coordinator.

(a) On or before November 1 of each school year, the superintendent of each school district, county office of education, and independent charter school may designate from among its employees a District Physical Fitness Test Coordinator. If a District Physical Fitness Test Coordinator is designated, the superintendent shall notify the contractor for the PFT of the identity and contact information of the District Physical Fitness Test Coordinator. The District Physical Fitness Test Coordinator shall be available throughout the year and shall serve as the liaison between the school district and the CDE for all matters related to the PFT.

(b) The District Physical Fitness Test Coordinator responsibilities include, but are not limited to, the following:

- (1) Responding to correspondence and inquiries from the contractor in a timely manner and as provided in the contractor's instructions.
- (2) Determining school district and individual school test and test material needs.
- (3) Overseeing the administration of the PFT to pupils.
- (4) Overseeing the collection and return of all test data to the contractor.

(5) Ensuring that all test data are received from school test sites within the school district in sufficient time to satisfy the reporting requirements.

(6) Ensuring that all test data are sent to the test contractor by June 30 of each year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043.6. Data for Analysis of Pupil Proficiency.

(a) Each school district shall provide the contractor of the PFT the California School Information Services (CSIS) student identification number and demographic information for each pupil tested for purposes of the analyses and reporting.

(b) The demographic information required by subdivision (a) is for the purpose of aggregate analyses and reporting only.

(c) School districts shall provide the same information for each pupil enrolled in an alternative or off-campus program, or for pupils placed in nonpublic schools, as provided for all other pupils.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49061, 60605 and 60800, Education Code; and 20 USC Section 1232g.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043.8. Reporting Test Scores.

No aggregate or group scores or reports that are compiled pursuant to Education Code section 60800 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, if the aggregate of group scores or reports are composed of ten (10) or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear: "The number of pupils in this category is too small for statistical

accuracy or privacy protection." In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual pupil.

NOTE: Authority cited: Section 33031 and 60605, Education Code. Reference: Section 49061, 60605 and 60800, Education Code; 20 USC Section 1232g; 34 CFR part 99; and 20 USC Section 6311(b)(3)(C)xiii.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1043.10. Reports of Results.

Results shall be provided to each pupil after completing the test. The results may be provided orally or in writing.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1044. Recording Test Scores.

The district superintendent or the county superintendent of schools, as the case may be, shall require that the pupil's scores on each of the tests given him or her in the physical performance testing program be included in the pupil's cumulative record. This requirement may be met by maintaining the regular physical performance testing program card with the cumulative record form.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1045. Responsibility of County Superintendent of Schools.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60610, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer of section and new NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1046. Use of Reports.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. Repealer of section and new NOTE filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

Article 2.5. Testing Variations/Accommodations

§ 1047. Testing Variations and Accommodations Available to Pupils.

(a) Each pupil with an IEP or Section 504 plan shall be given as much of the test as his or her condition will permit.

(b) School districts may provide all pupils the following test variations:

- (1) extra time within a testing day.
- (2) test directions that are simplified or clarified.

(c) All pupils may have the following testing variations if regularly used in the classroom:

- (1) audio amplification equipment.
- (2) test individual student separately provided that the pupil is directly supervised by the test examiner.

(3) Manually Coded English or American Sign Language to present directions for test administration.

(d) School districts may provide pupils with disabilities the following accommodations when administering the PFT if specified in the pupil's IEP or Section 504 plan:

- (1) Administration of the PFT at the most beneficial time of day to the pupil after consultation with the test contractor.

(2) Administration of the PFT by a test examiner to the pupil at home or in the hospital.

(3) Any other accommodation specified in the pupil's IEP or Section 504 plan for the PFT.

NOTE: Authority cited: Section 33031, Education Code. Reference: 20 USC Section 1400, et seq.; 29 USC Section 794; and 42 USC Section 12132 and 12133.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

§ 1048. Testing Variations Available to English Learners.

School districts may provide identified English learner pupils the following additional testing variations if regularly used in the classroom or for assessment:

(1) English learners may have the opportunity to be tested separately with other English learners provided that the pupil is directly supervised by the test examiner.

(2) English learners may have the opportunity to hear the test directions printed in the test contractor's manual translated into their primary language. English learners may have the opportunity to ask clarifying questions about the test directions in their primary language.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800, Education Code.

HISTORY

1. New section filed 7-31-2006; operative 8-30-2006 (Register 2006, No. 31).

Article 3. Reading Testing Programs in Grades 1, 2, and 3

NOTE: Authority cited: Sections 33031, 54103, 60602, 60603, 60607, 60640, Education Code. Reference: Sections 60640-60644, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 1050-1060) filed 11-29-79; effective thirtieth day thereafter (Register 79, No. 48). For prior history, see Registers 77, No. 39, 76, No. 40, 74, No. 52, 72, No. 18, 72, No. 8, 71, No. 25, 69, No. 39 and 67, No. 51.

Article 4. Alternative Assessment Pilot Project

§ 1061. Eligibility.

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 1062. Application Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730, 60731 and 60731.5, Education Code.

HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 1063. Mandatory Application Requirements and Review Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60731, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

HISTORY

1. New section filed 5-20-91 as an emergency; operative 5-20-91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9-17-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

3. Editorial correction of Authority cite (Register 95, No. 9).

§ 1064. Quality Requirements and Review Process.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60731, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

HISTORY

1. New section filed 5–20–91 as an emergency; operative 5–20–91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9–17–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 1065. Eligibility of Agency Providing Independent Evaluation.

NOTE: Authority cited: Sections 33031 and 60731, Education Code. Reference: Sections 60730 and 60731.5, Education Code; and Statutes of 1990, Chapter 12, Section 1.

HISTORY

1. New section filed 5–20–91 as an emergency; operative 5–20–91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9–17–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 1066. Evaluation of Proposals to Conduct Independent Evaluation.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730 and 60731.5, Education Code.

HISTORY

1. New section filed 5–20–91 as an emergency; operative 5–20–91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9–17–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 1067. Rating Criteria for Selecting Independent Evaluation Agency.

NOTE: Authority cited: Sections 33031 and 60730, Education Code. Reference: Sections 60730, 60731.5 and 60731.6, Education Code; and Statutes of 1990, Chapter 12, Section 1.

HISTORY

1. New section filed 5–20–91 as an emergency; operative 5–20–91 (Register 91, No. 26). A Certificate of Compliance must be transmitted to OAL by 9–17–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

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Article 5. Alternative Schools Accountability Model Pre-Post Assessments

§ 1068. Application of this Article.

This article shall only apply to schools that are registered in the Alternative Schools Accountability Model (ASAM) and have chosen to adopt a pre-post assessment instrument as an indicator for use in the ASAM. NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New article 5 (sections 1068–1074) and section filed 7–21–2003 as an emergency; operative 7–21–2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–18–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–21–2003 order transmitted to OAL 9–25–2003 and filed 11–6–2003 (Register 2003, No. 45).

§ 1069. Definitions.

For the purposes of this article, the following definitions apply:

- (a) "Pre-post assessment instrument" is an assessment instrument available for adoption as an indicator of achievement by schools in the ASAM.
- (b) "Pre-test" is an initial assessment given no later than 20 instructional days following the pupil's first day of enrollment in the ASAM school.
- (c) "Post-test" is an assessment given after a minimum of 30 days of instruction following the administration of the pre-test.
- (d) "ASAM test site coordinator" means the ASAM school principal or other district employee designated by the district superintendent to oversee the acquisition, and the secure distribution, administration, scoring, and reporting of a pre-post assessment instrument at the school site.
- (e) "Test Administrator" means a certificated employee or paraprofessional employee of a school district trained in the administration of a pre-post assessment instrument by the ASAM test site coordinator.
- (f) "Long-term student" is a student who has been continuously enrolled in the ASAM school for a minimum of 90 consecutive school days during the school year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7–21–2003 as an emergency; operative 7–21–2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–18–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–21–2003 order transmitted to OAL 9–25–2003 and filed 11–6–2003 (Register 2003, No. 45).

§ 1070. Administration of Pre-Post Assessment Instrument.

(a) In order to yield reliable and valid results, each pre-post assessment instrument shall be administered in accordance with directions provided in the publisher's assessment administration manual.

(b) The school's ASAM test site coordinator shall oversee the administration of all pre-post assessment instruments to ensure adherence to the directions provided in the publisher's assessment administration manual.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7–21–2003 as an emergency; operative 7–21–2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–18–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–21–2003 order transmitted to OAL 9–25–2003 and filed 11–6–2003 (Register 2003, No. 45).

§ 1071. Test Administrator Eligibility.

Any certificated employee of a school district trained in the administration of the pre-post assessment instrument may administer the assessment. Trained paraprofessional employees of the district may administer the pre-post assessment instrument under the direct supervision of a trained certificated employee.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7–21–2003 as an emergency; operative 7–21–2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–18–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–21–2003 order transmitted to OAL 9–25–2003 and filed 11–6–2003 (Register 2003, No. 45).

§ 1072. Security and Storage Requirements.

(a) To ensure security of the pre-post assessment instruments, all ASAM assessment test site coordinators (coordinators) shall sign the ASAM Pre-Post Assessment Security Agreement as set forth in subdivision (b).

(b) The ASAM Pre-Post Assessment Security Agreement shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AGREEMENT

The coordinator acknowledges by his or her signature on this form that the ASAM pre-post assessment instruments are secure assessments and agrees to each of the following conditions to ensure test security:

(1) The coordinator will take all necessary precautions to safeguard all pre-post assessment instruments and assessment materials by limiting access to persons within the school district with a responsible, professional interest in the assessment instruments' security.

(2) The coordinator will keep on file the names of persons having access to pre-post assessment instruments and assessment materials. All persons having access to the materials shall be required by the coordinator to sign the ASAM Pre-Post Assessment Security Affidavit that will be kept on file in the school and school district office.

(3) The coordinator will keep the pre-post assessment instruments and assessment materials in a secure, locked location at the school site, limiting access to only those persons responsible for assessment security, except on actual administration dates.

(4) The coordinator will be responsible for ensuring the security of all scoring activities whether done at the school site, the district office, or by an external contractor.

By signing my name to this document, I am assuring that I and anyone having access to the pre-post assessment instruments will sign a security affidavit.

By: _____
 Title: _____
 School: _____
 School District: _____
 Date: _____

(c) All persons having access to the ASAM pre-post assessment instruments, including but not limited to the coordinator and test administrators, shall acknowledge the limited purpose of their access to the assessment instruments by signing the ASAM Pre-Post Assessment Security Affidavit set forth in subdivision (d).

(d) The ASAM Pre-Post Test Security Affidavit shall be as follows:

ASAM PRE-POST ASSESSMENT SECURITY AFFIDAVIT

I acknowledge that I will have access to the ASAM pre-post assessment instruments for the purpose of administering or scoring the assessments. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the pre-post assessment instruments to any other person.

(2) I will not copy any part of the pre-post assessment instruments or assessment materials.

(3) I will keep the pre-post assessment instruments secure until the assessments are actually distributed to pupils or, in the case of computer-

administered assessments, the pupils actually log on to begin the assessments.

(4) I will limit pupils' access to the pre-post assessment instruments and assessment to the actual testing periods.

(5) I will not permit pupils to remove pre-post assessment instruments and assessment materials from the room where testing takes place.

(6) I will not disclose, or allow to be disclosed, the contents of, or the scoring keys to, the pre-post assessment instruments.

(7) I will return all pre-post assessment instruments and assessment materials to the designated coordinator upon completion of the assessment administration.

(8) I will not interfere with the independent work of any pupil taking a pre-post assessment and I will not compromise the security of the assessment instrument by means including, but not limited to:

(A) Providing pupils with access to pre-post assessment questions prior to administration of the assessment instrument.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any portion of any secure pre-post assessment instrument.

(C) Coaching pupils during administration of the assessment instrument or altering or interfering with the pupils' responses in any way.

(D) Making answer keys available to pupils.

(E) Failing to follow security rules for distribution and return of secure pre-post assessment instruments as directed, or failing to account for all secure pre-post assessment instruments and assessment materials before, during, and after their administration.

(F) Failing to follow administration directions specified in the publisher's assessment administration manual.

(G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts prohibited in this section.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7-21-2003 as an emergency; operative 7-21-2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-18-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-21-2003 order transmitted to OAL 9-25-2003 and filed 11-6-2003 (Register 2003, No. 45).

§ 1073. Scoring.

All pre-post assessment instruments scored at the school site or district office shall be scored under the supervision of the coordinator. The coordinator will monitor the contract for any scoring activities carried out by an external contractor. All scoring shall be done following the instructions and using the answer keys provided by the publisher of the specific pre-post assessment instrument.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7-21-2003 as an emergency; operative 7-21-2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-18-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-21-2003 order transmitted to OAL 9-25-2003 and filed 11-6-2003 (Register 2003, No. 45).

§ 1074. Reporting.

School districts that have adopted a pre-post assessment instrument as an indicator of achievement for an ASAM school shall submit the following information for each long-term student enrolled in the school.

- (a) Local student Identification number (as available).
- (b) Test name and form.
- (c) Dates pre-post assessment instruments were administered.

(d) Scores on each assessment instrument.

(e) Student demographics:

(1) Date of birth.

(2) Grade level.

(3) Gender.

(4) Language fluency and home language.

(5) Special program participation.

(6) Testing adaptations or accommodations.

(7) Amount of time in school district and in California public schools.

(8) Ethnicity.

(9) Parent education level.

(10) Handicapping condition or disability.

This information is for the purpose of aggregate analyses only.

Districts shall submit the ASAM pre-post assessment instrument results to CDE or its designee by October 28 each year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 52052, Education Code.

HISTORY

1. New section filed 7-21-2003 as an emergency; operative 7-21-2003 (Register 2003, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-18-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7-21-2003 order transmitted to OAL 9-25-2003 and filed 11-6-2003 (Register 2003, No. 45).
3. Amendment of final paragraph filed 5-25-2006; operative 6-24-2006 (Register 2006, No. 21).

Subchapter 6. California High School Exit Examination

Article 1. General

§ 1200. Definitions.

For the purposes of the high school exit examination, the following definitions shall apply:

(a) "CDE" is the California Department of Education.

(b) "District coordinator" is an employee of the school district designated by the superintendent of the district to oversee the administration of the high school exit examination within the district.

(c) "Eligible adult student" is a person enrolled in an adult school operated by a school district who is working to attain a high school diploma and has not passed both the English-language arts section and the mathematics section of the high school exit examination. This term does not include pupils who are concurrently enrolled in high school and adult school.

(d) "Eligible pupil" is a person enrolled in a California public school in grade 10, 11, or 12, including those pupils placed in a nonpublic school through the individualized education program (IEP) process pursuant to Education Code section 56365, who has not passed both the English-language arts section and the mathematics section of the high school exit examination.

(e) "Examination" is the high school exit examination.

(f) "Excessive materials" is the difference between the sum of the number of tests scored and 80 percent of the tests ordered by the school district for the entire school year. The difference must be greater than 100 to be "excessive materials."

(g) "Grade" for the purposes of the high school exit examination means the grade assigned to the pupil by the school district at the time of testing.

(h) "Grade 10 census administration" is the administration of the high school exit examination during which all eligible pupils in grade 10 are to take the examination.

(i) "Opportunity" shall refer to a chance an eligible pupil or eligible adult student is provided to take the section(s) of the examination not yet passed.

(j) "School district" includes unified and high school districts, county offices of education, any charter school that for assessment purposes

does not elect to be part of the school district or county office of education that granted the charter, and any charter school chartered by the State Board of Education (SBE).

(k) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP and is required to transcribe an eligible pupil's or eligible adult student's responses to the format required by the examination. No parent or guardian is eligible to be a scribe for their own pupil or student.

(l) "Section," "portion," and "part(s)" of the examination shall refer to either the English-language arts section of the high school exit examination or the mathematics section of the high school exit examination.

(m) "Significant medical emergency" is a significant accident, trauma, or illness (mental or physical) that precludes a pupil in grade 10 from taking the examination. An accident, trauma or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the examination.

(n) "Test administration" is the period of time starting with the delivery of the secure testing materials to the district and ending with the return shipment of materials to the test contractor, and includes the period of time during which eligible pupils or eligible adult students take one or both sections of the examination.

(o) "Test examiner" is an employee of a school district, or a person assigned by a nonpublic school to implement a student's IEP, who has received training specifically designed to prepare him or her to administer the high school exit examination.

(p) "Test materials" are materials necessary to administer the examination, including but not limited to test manuals, pupil test booklets, answer documents, special test versions, and other materials developed and provided by the test contractor.

(q) "Test proctor" is an employee of a school district, or a person assigned by a nonpublic school to implement a pupil's IEP, who has received training specifically designed to prepare him or her to assist the test examiner in administration of the high school exit examination.

(r) "Test site coordinator" is an employee of the school district designated by the district coordinator or the superintendent or a person assigned by a nonpublic school to implement a student's IEP, who oversees the administration of the high school exit examination at each test site at which the examination is given.

(s) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to, accommodations and modifications as defined in Education Code section 60850.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52504, 56365, 60850 and 60851, Education Code; and 20 USC Section 6311.

HISTORY

1. Amendment of subchapter 6 heading and new subchapter 6 (articles 1–5, sections 1200–1225), article 1 (section 1200) and section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25). For prior history of subchapter 6, see Register 76, No. 3.
2. Amendment of subsections (e) and (g) and amendment of NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment of section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

Article 2. High School Exit Examination Administration

§ 1202. Excessive Materials Costs.

The school district is responsible for the cost of excessive materials ordered by the school district. In no case shall the cost to the school district for excessive materials exceed the amount per test booklet and accompa-

nying material that is paid to the contractor by the CDE as part of the contract with the test contractor for the current year billed.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New section filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1203. Pupil or Adult Student Identification.

Test examiners at the test site shall be responsible for the accurate identification of eligible pupils or eligible adult students who are to be administered the examination through the use of photo-identification or positive recognition by an employee of the school district.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New article 2 (sections 1203–1212) and section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of article heading and section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).

§ 1204. Grade 10 Testing.

All eligible grade 10 pupils shall only take each section of the examination once per school year while in grade 10 during either the grade 10 census administration or the district-designated grade 10 make up administration.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Repealer and new section and amendment of NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of section heading and repealer and new section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1204.5. Grades 11 and 12 and Adult Student Testing Dates.

(a) School districts shall provide eligible pupils in grade 11 at least two opportunities per school year to take the section(s) of the examination not yet passed. Eligible pupils in grade 11 may take the section(s) of the examination not yet passed up to two times per school year and may take examination in successive administrations.

(b) School districts shall provide eligible pupils in grade 12 at least three opportunities per school year to take the section(s) of the examination not yet passed. Eligible pupils in grade 12 may take the section(s) of the examination not yet passed up to three times per school year and may take the examination in successive administrations.

(c) School districts shall provide eligible adult students at least three opportunities per school year to take the section(s) of the examination not yet passed. Eligible adult students may take the section(s) of the examination not yet passed up to three times per school year and may take the examination in successive administrations.

(d) Eligible pupils in grades 11 and 12 and eligible adult students should be offered appropriate remediation or supplemental instruction before being retested.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 37252, 37254 and 60851, Education Code.

HISTORY

1. New section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
2. Amendment of section heading, section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
3. Amendment of section heading and section filed 3–16–2006 as an emergency; operative 3–16–2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–14–2006 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3–16–2006 order transmitted to OAL 6–12–2006 and filed 7–25–2006 (Register 2006, No. 30).
5. Amendment of section and NOTE filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1205. School District Information.

School districts shall maintain a summary data file, as set forth below, of all pupils who participate in each test administration of the examination. This summary data file shall include the following information for (1) the English–language arts section, and (2) the mathematics section, for each test administration:

- (a) The date on which each section of the examination was taken.
- (b) The full name of each pupil who took each section of the examination.
- (c) The grade level of each pupil at the time each section of the examination was taken.
- (d) Whether each pupil has satisfied the requirement to successfully pass the examination for each section or sections of the examination taken.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment of first paragraph filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1206. Permanent Record Information.

(a) School districts shall maintain in each pupil's permanent record the following information:

- (1) The date on which the pupil took each section of the examination.
- (2) Whether the pupil has satisfied the requirement to successfully pass the examination for each section or sections of the examination taken.

(b) The information required by subdivision (a) of this section shall be entered in each pupil's permanent record within 60 days of receiving the electronic data files from the test contractor.

(c) Whenever a pupil transfers from one school district to another, the new district may request the pupil's examination results as part of the permanent record, pursuant to subdivision (a), in compliance with Education Code section 49068.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49068 and 60851, Education Code.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment of subsection (b) filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).

§ 1207. Data for Analysis of Pupil Performance.

(a) Each school district shall provide the test contractor with an answer document with complete demographic information for each grade 10 pupil enrolled at the time of the grade 10 census administration.

(b) Each school district shall provide the following demographic information for each grade 10, 11, and 12 pupil tested:

- (1) Pupil's full name
- (2) Date of birth
- (3) Grade level
- (4) Gender
- (5) English proficiency
- (6) Primary language
- (7) Date of English proficiency reclassification
- (8) English learner enrollment date
- (9) Use of English learner test variations

(10) If R–FEP pupil scored proficient or above on the California English–Language Arts Standards Test three times since reclassification

- (11) Program participation
- (12) National School Lunch Program (NSLP) participation
- (13) Use of accommodations or modifications during the examination
- (14) Primary disability code
- (15) Special Education Exit Date
- (16) Participation in California Alternate Performance Assessment (CAPA)
- (17) Ethnicity
- (18) School and district CBEDS enrollment
- (19) Parent or guardian education level
- (20) District and county of residence for students with disabilities
- (21) Statewide Student Identifier (SSID)
- (22) For Alternative Schools Accountability Model (ASAM) schools, whether the student has been enrolled in the school less than 90 school days prior to testing.
- (23) Nonpublic nonsectarian school (NPS) code
- (24) Independent evaluator survey response data

(c) In addition to the demographic data required to be reported in section 1207(b), school districts may report if a grade 10 pupil is not tested due to a significant medical emergency.

(d) Each school district shall provide the following demographic information for each adult student tested:

- (1) Student's full name
- (2) Date of birth
- (3) Adult student status
- (4) Gender
- (5) Use of accommodations or modifications during the examination
- (6) Use of English learner test variations
- (7) Primary disability code
- (8) Ethnicity
- (9) District and county of residence for students with disabilities

(e) The demographic information is for the purposes of aggregate analyses only and shall be provided to the test contractor and collected as part of the testing materials for the examination.

(f) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off–campus program, or for pupils placed in nonpublic schools, as is provided for all other eligible pupils.

(g) If the information required by section 1207(b) or 1207(d) is incorrect, the school district shall provide corrected information within the time schedule specified by the test contractor or may enter into a separate agreement with the contractor to have the district's data file corrected. Any costs for correcting the student data pursuant to a separate agreement between the school district and the test contractor shall be the school district's responsibility.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52052, 60855 and 60900, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment of section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
4. Amendment filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1207.1. Data for Analysis of Local Waiver Process for Pupils with Disabilities.

By December 31 of each year, each school district shall provide to the CDE the following information from the prior school year pursuant to Education Code section 60851:

(a) Provide the following information by grade and by school for those pupils and adult students who have taken one or both parts of the examination with one or more modifications and have received the equivalent of a passing score:

(1) The number of pupils or adult students who received the equivalent of a passing score on the mathematics portion of the examination only.

(2) The number of pupils or adult students who received the equivalent of a passing score on the English–language arts portion of the examination only.

(3) The number of pupils or adult students who received the equivalent of a passing score on both portions of the examination.

(b) Provide the following information by grade, by school, by primary disability, and by the percent of time in general education for each pupil and adult student who has taken one or both parts of the examination with one or more modifications and has received the equivalent of a passing score and for whom a waiver pursuant to Education Code section 60851(c) has been requested:

(1) The number of pupils or adult students for whom a waiver of the mathematics portion of the examination only has been requested.

(2) The number of pupils or adult students for whom a waiver of the English–language arts portion of the examination only has been requested.

(3) The number of pupils or adult students for whom a waiver of both portions of the examination has been requested.

(c) Provide the following information by grade, by school, by primary disability, and by the percent of time in general education for each pupil and adult student who has taken one or both parts of the examination with one or more modifications and has received the equivalent of a passing score and for whom a waiver pursuant to Education Code section 60851(c) has been granted:

(1) The number of pupils or adult students for whom a waiver of the mathematics portion of the examination only has been granted.

(2) The number of pupils or adult students for whom a waiver of the English–language arts portion of the examination only has been granted.

(3) The number of pupils or adult students for whom a waiver of both portions of the examination has been granted.

(d) Provide the following information by grade, by school, by primary disability, and by the percent of time in general education for each pupil and adult student who has taken one or both parts of the examination with one or more modifications and has received the equivalent of a passing score and for whom a waiver pursuant to Education Code section 60851(c) has been denied:

(1) The number of pupils or adult students for whom a waiver of the mathematics portion of the examination only has been denied.

(2) The number of pupils or adult students for whom a waiver of the English–language arts portion of the examination only has been denied.

(3) The number of pupils or adult students for whom a waiver of both portions of the examination has been denied.

(e) The number of pupils or adult students that graduated as a result of having been granted a waiver on one or both portions of the examination.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New section filed 3–16–2006 as an emergency; operative 3–16–2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–14–2006 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–16–2006 order transmitted to OAL 6–12–2006 and filed 7–25–2006 (Register 2006, No. 30).
3. Amendment of first paragraph and subsection (e) filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1207.2. Data for Analysis of Exemption for Pupils with Disabilities in the Class of 2007.

(a) By February 1, 2008, each school district and state special school shall provide the following information to the CDE for each pupil in the class of 2007 who has an IEP or Section 504 plan dated on or before July 1, 2006, that indicates that the pupil is scheduled to graduate in 2007, but who has not yet passed both sections of the examination:

(1) Primary disability code.

(2) Percent of time spent in general education.

(3) Anticipated graduation date as specified in the IEP or Section 504 plan.

(4) Whether the pupil satisfied all other state and local graduation requirements.

(5) The month and year of each attempt to pass the examination with the accommodations and modifications, if any, specified in the IEP or Section 504 plan.

(6) Type of remedial or supplemental instruction program completed.

(7) The month and year of each attempt to pass the examination after completing a remedial or supplemental instruction program.

(8) The date on which the pupil, or the parent or legal guardian if the student is a minor, was notified in writing that the pupil is entitled to receive free appropriate public education up to and including the academic year in which the pupil reaches 22 years of age, or until the pupil receives a high school diploma, whichever occurs first.

(9) Whether the pupil received a waiver from the requirement to pass the examination pursuant to Education Code section 60851(c).

(10) Whether the pupil satisfied the criteria set forth in Education Code section 60852.4.

(11) Whether the pupil received a diploma pursuant to Education Code section 60852.4.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60852.4, Education Code.

HISTORY

1. New section filed 3–16–2006 as an emergency; operative 3–16–2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–14–2006 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–16–2006 order transmitted to OAL 6–12–2006 and filed 7–25–2006 (Register 2006, No. 30).
3. Amendment of section heading and subsections (a), (a)(8) and (a)(10)–(11) and amendment of NOTE filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1207.5. Reporting Test Scores.

No aggregate or group scores or reports that are compiled pursuant to Education Code section 60851 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, except the independent evaluator as set forth in Education Code section 60855, if the aggregate or group scores or reports are composed of ten or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear: “The number of pupils in this category is too small for statistical accuracy or privacy protection.” In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60851 and 60855, Education Code; and 20 USC Section 1232g.

HISTORY

1. New section filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
2. Amendment filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1208. Notice of the High School Exit Examination.

A school district shall maintain documentation that the parent or guardian of each pupil has been sent written notification as required by Education Code sections 48980 and 60850.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48980 and 60850, Education Code.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

§ 1209. High School Exit Examination District Coordinator.

(a) On or before July 1 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district coordinator. The superintendent shall notify the test contractor of the identity and contact information for the district coordinator, including the district coordinator’s phone number and email address.

(b) The district coordinator or the school district superintendent or his or her designee, shall be available throughout the year and shall serve as the liaison between the school district and the test contractor and the school district and the CDE for all matters related to the examination.

(c) The district coordinator or the school district superintendent or his or her designee shall oversee the administration of the examination to eligible pupils or eligible adult students, in accordance with the manuals or other instructions provided by the test contractor for administering and returning all test materials including, but not limited to, the following responsibilities:

(1) Responding to correspondence and inquiries from the test contractor and the CDE in a timely manner and as provided in the test contractor's instructions and these regulations.

(2) Advising the test contractor of the selected administration dates for the coming school year by March 1 of the prior school year.

(3) For charter schools, advising the test contractor for the coming school year by March 1 of the prior school year of whether the school, for assessment purposes, does not elect to be part of the school district or county office of education that granted the charter. If the charter school does not advise the test contractor by March 1, the charter school will be designated as part of the school district or county office of education that granted the charter.

(4) Determining school district and individual school examination and test material needs in conjunction with the test contractor using current enrollment data.

(5) Completing, filing, and adhering to the Test Security Agreement as set forth in section 1211.5 with the test contractor prior to the receipt of test materials. A copy of the Test Security Agreement shall be maintained at the district office for 12 months from the date signed.

(6) Identifying and training a test site coordinator for each test site and securing a signed Test Security Agreement from each test site coordinator in the district and from any test examiner at a nonpublic school in which a pupil has been placed by the district.

(7) Ordering sufficient test materials for eligible pupils and eligible adult students, including completing an electronic data file containing the data set forth in section 1207 if the district chooses to have the test contractor pre-identify answer documents.

(8) Overseeing the collection of all pupil data as required to comply with sections 1205, 1206, and 1207.

(9) Ensuring that the test materials are retained in a secure, locked location, in the sealed boxes in which they were received from the test contractor, from the time they are received in the school district until the time they are opened for inventory and delivery to test sites.

(10) Ensuring delivery of test materials to the test sites no more than five working days before the examination is to be administered.

(11) Ensuring that all test materials are received from test sites no later than the second day following the administration of the examination.

(12) Ensuring that all test materials received from test sites have been placed in a secure school district location upon receipt.

(13) Ensuring that all test materials are inventoried, packaged, and labeled in accordance with instructions from the test contractor. The test materials shall be ready for pick-up by the test contractor at a designated location in the school district no more than five working days following administration of the examination in the school district.

(14) Ensuring that an answer document is submitted for scoring for each eligible pupil in grade 10 enrolled in the district at the time of the grade 10 census administration.

(15) Assisting the test contractor and the CDE in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and the number of examinations received from the test contractor and the number of examinations collected for return to the test contractor.

(16) Immediately notifying the test contractor of any testing irregularities, security breaches, or suspected security breaches in the district before, during, or after the administration of the examination.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 6-20-2001; operative 7-20-2001 (Register 2001, No. 25).
2. Amendment of subsection (b)(5) and amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of section heading and section filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment of section heading, section and NOTE filed 8-16-2005; operative 8-16-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1210. High School Exit Examination Test Site Coordinator.

(a) Annually, the district coordinator or the superintendent of the school district shall designate a test site coordinator for each test site. The designee shall be an employee of the school district, or the person assigned by a nonpublic school to implement a student's IEP.

(b) The test site coordinator shall be available to the district coordinator for the purpose of resolving issues that arise as a result of the administration of the examination.

(c) The test site coordinator shall oversee the administration of the examination to eligible pupils or eligible adult students at the test site in accordance with the manuals or other instructions provided by the test contractor for administering the examination including, but not limited to, the following responsibilities:

(1) Determining test site and test material needs.

(2) Arranging for test administration at the test site.

(3) Training the test examiner(s), test proctors, and scribes as provided in the test contractor's manual.

(4) Completing a Test Security Agreement and Test Security Affidavit as set forth in section 1211.5 prior to the receipt of test materials.

(5) Overseeing test security requirements, including collecting and delivering all completed Test Security Affidavit forms to the school district office from the test examiners and other site personnel involved with testing. All Test Security Affidavits shall be maintained for 12 months from the date signed.

(6) Overseeing the acquisition and inventory of test materials from the school district and the distribution of test materials to the test examiner(s).

(7) Maintaining security over the examination and test data as follows:

(A) Delivering the test materials only to those persons who have signed the Test Security Affidavit and who are administering the examination on the date of testing.

(B) Ensuring that strict supervision is maintained over each eligible pupil or eligible adult student who is being administered the examination both while the eligible pupil or eligible adult student is in the room in which the examination is being administered and during any period in which the eligible pupil or eligible adult student is, for any purpose, granted a break during testing.

(8) Overseeing the collection of all pupil data as required to comply with sections 1205, 1206, and 1207.

(9) Overseeing the collection, inventory, and return of all test materials to the district coordinator no later than the day following administration of the examination.

(10) Ensuring that an answer document is submitted for scoring for each eligible pupil in grade 10 enrolled in the test site on the testing dates.

(11) Assisting the district coordinator and the test contractor in the resolution of any discrepancies between the number of examinations received from the district coordinator and the number of examinations collected for return to the district coordinator.

(12) Immediately notifying the district coordinator of any testing irregularities, security breaches, or suspected security breaches at the test site before, during, or after the administration of the examination.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment of section heading, section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
4. Amendment filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1211. High School Exit Examination Test Security.

(a) Access to the examination materials is limited to eligible pupils and eligible adult students taking the examination for the purpose of obtaining a public high school diploma of graduation, and those who have signed the security affidavit or agreements, including employees of a school district directly responsible for administration of the examination, and persons assigned by a nonpublic school to implement students' IEPs.

(b) To maintain the security of the examination, all school district and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

(c) The security of the test materials that have been delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the test contractor.

(d) Once test materials have been delivered to the school district, secure transportation of the test materials within a school district including to nonpublic schools (for students placed through the IEP process), court and community schools, and home and hospital care, is the responsibility of the school district.

(e) No examination may be administered in a home or hospital except by a test examiner. No examination shall be administered to an eligible pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from being a test proctor and assisting in the administration of the examination under the supervision of a test examiner provided that the classroom aide does not assist his or her own child and that the classroom aide signs the Test Security Affidavit as set forth in section 1211.5.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60851, Education Code.

HISTORY

1. New section filed 6–20–2001; operative 7–20–2001 (Register 2001, No. 25).
2. Amendment of subsections (b), (f), (g) and (j), new subsection (k) and amendment of NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of section heading and section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment of subsections (a), (c) and (d) filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1211.5. High School Exit Examination Test Security Forms.

(a) All district and test site coordinators shall sign the California High School Exit Examination Test Security Agreement set forth in subdivision (b).

(b) The California High School Exit Examination Test Security Agreement shall be as follows:

CALIFORNIA HIGH SCHOOL EXIT EXAMINATION TEST SECURITY AGREEMENT

(1) I will ensure that all test examiners are trained to administer the examination in compliance with the test administration manuals.

(2) I will take all necessary precautions to safeguard all test materials by limiting access to persons within the school district with a responsible, professional interest in the examination's security.

(3) I will not disclose, or allow to be disclosed, the contents of the examination.

(4) I will keep on file the names of persons having access to test materials. All persons having access to the materials shall be required to sign the California High School Exit Examination Test Security Affidavit that will be kept on file in the school district office.

(5) I will keep the test materials in a secure, locked location, limiting access to only those persons responsible for test security, except on actual testing dates as provided in California Code of Regulations, title 5, division 1, chapter 2, subchapter 6.

(6) I will not copy any part of the examination or test materials unless necessary to administer the examination pursuant to section 1215.5 or 1216.

(7) I will not review test questions, develop any scoring keys, or review or score any pupil responses except as required by the test contractor's manuals.

By signing my name to this document, I am assuring that I will abide by the above conditions.

Signed: _____

Print name: _____

Title: _____

School District/Affiliation: _____

Date: _____

(c) All persons having access to the California High School Exit Examination, including but not limited to the test site coordinator, test examiners, test proctors, scribes, and persons assigned by a nonpublic school to implement students' IEPs shall acknowledge the limited purpose of their access to the examination by signing the California High School Exit Examination Test Security Affidavit set forth in subdivision (d).

(d) The California High School Exit Examination Test Security Affidavit shall be as follows:

CALIFORNIA HIGH SCHOOL EXIT EXAMINATION TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to test materials for the purpose of administering the examination. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the examination to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test materials.

(3) I will keep the examination secure until the examination is actually distributed to eligible pupils or eligible adult students.

(4) I will limit access to the test materials by test examinees to the actual testing periods when they are taking the examination.

(5) I will collect and account for all materials following each examination and will not permit eligible pupils or eligible adult students to remove test materials from the room where testing takes place.

(6) I will not review any test questions, passages, or other test items with eligible pupils or eligible adult students before, during, or after the examination.

(7) I will return all test materials to the designated test site coordinator upon completion of the examination.

(8) I will not interfere with the independent work of any eligible pupil or eligible adult student taking the examination and I will not compromise the security of the examination by any means including, but not limited to:

(A) Providing eligible pupils or eligible adult students with access to examination questions prior to testing.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any section of any secure test materials.

(C) Coaching eligible pupils or eligible adult students during testing or altering or interfering with the eligible pupil's or eligible adult student's responses in any way.

(D) Making answer keys available to eligible pupils or eligible adult students.

(E) Failing to follow security rules for distribution and return of secure test materials as directed, or failing to account for all secure test materials before, during, and after testing.

(F) Failing to follow test administration directions specified in test administration manuals.

(G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts prohibited in this section.

(9) I will administer the examination in accordance with the directions for administration set forth in the test contractor's manuals for administration of the examination.

(10) I have been trained to administer the examination.

Signed: _____

Print name: _____

Title: _____

School District/Affiliation: _____

Date: _____

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60851, Education Code.

HISTORY

1. New section filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
2. Amendment filed 8-16-2005; operative 8-16-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
3. Amendment filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1212. Test Site Delivery.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New section filed 6-20-2001; operative 7-20-2001 (Register 2001, No. 25).
2. Amendment of section and NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Repealer filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

Article 3. High School Exit Examination Testing Variations/Accommodations/ Modifications/Waivers

§ 1215. Testing Variations.

(a) School districts may provide all eligible pupils and eligible adult students the following testing variations:

- (1) extra time within a testing day.
- (2) test directions that are simplified or clarified.
- (3) student marks in test booklets (other than responses), including highlighting.

(b) All eligible pupils and eligible adult students may have the following testing variations if regularly used in the classroom:

- (1) special or adaptive furniture.
- (2) special lighting, special acoustics, or visual magnifying or audio amplification equipment.
- (3) an individual carrel or study enclosure.
- (4) test individual student in a separate room provided that the eligible pupil or eligible adult student is directly supervised by an employee of the school, school district, or nonpublic school, who has signed the Test Security Affidavit.

(5) colored overlay, mask, or other means to maintain visual attention to the examination or test items.

(6) Manually Coded English or American Sign Language to present directions for test administration.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New article 3 (sections 1215-1219.5) and section filed 12-21-2001; operative 1-20-2002 (Register 2001, No. 51).
2. Amendment of article heading and amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of article heading, section heading and section filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment of section heading and section filed 8-16-2005; operative 8-16-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment of subsection (a)(3) and repealer of subsection (c) filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1215.5. Accommodations for Pupils or Adult Students with Disabilities.

(a) Eligible pupils or eligible adult students with disabilities shall be permitted to take the examination with the following accommodations if specified in the eligible pupil's or eligible adult student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessments.

(b) Presentation accommodations include:

- (1) large print versions in 20-point font.
- (2) examination enlarged if larger than 20-point font is required.
- (3) Braille transcriptions provided by the test contractor.
- (4) audio or oral presentation of the mathematics section of the examination.

(5) Manually Coded English or American Sign Language to present test questions on the mathematics section of the examination.

(c) Response accommodations include:

(1) responses marked in test booklet and transferred to the answer document by a school, school district, or nonpublic school employee who has signed the Test Security Affidavit.

(2) responses dictated orally, or in Manually Coded English or in American Sign Language to a scribe for selected-response items (e.g., multiple-choice test questions).

(3) responses dictated orally or in Manually Coded English to a scribe, audio recorder or speech-to-text converter on the writing portion of the examination, and the eligible pupil or eligible adult student indicates all spelling and language conventions.

(4) word processing software with spell and grammar check tools turned off on the writing portion of the examination.

(5) an assistive device that does not interfere with the independent work of the eligible pupil or eligible adult student on the multiple choice or writing portion of the examination.

(d) Scheduling/timing accommodations include:

(1) testing over more than one day after consultation with the test contractor.

(2) supervised breaks within a section of the examination.

(3) administration of the examination at the most beneficial time of day to the eligible pupil or eligible adult student after consultation with the test contractor.

(e) Setting accommodations include tests administered by a test examiner to an eligible pupil or eligible adult student at home or in the hospital.

(f) The use of accommodations on the examination will not invalidate an eligible pupil's or eligible adult student's test score or scores.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

HISTORY

1. Renumbering of former section 1217 to new section 1215.5, including amendment of section heading and section, filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
2. Amendment filed 8-16-2005; operative 8-16-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
3. Amendment of subsection (a)(2) and repealer of subsection (g) filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1216. Modifications for Pupils or Adult Students with Disabilities.

(a) Eligible pupils or eligible adult students with disabilities shall be permitted to take the examination with the following modifications if specified in the eligible pupil's or eligible adult student's IEP or Section 504 plan for use on the examination, standardized testing, or for use during classroom instruction and assessments.

(b) The following are modifications as defined by Education Code section 60850 because they fundamentally alter what the examination measures or affect the comparability of scores:

(1) arithmetic table, calculators, or math manipulatives on the mathematics section of the examination.

(2) audio or oral presentation of the English-language arts section of the examination.

(3) Manually Coded English or American Sign Language to present test questions on the English-language arts section of the examination.

(4) spellcheckers, grammar checkers, or word processing software programs that check or correct spelling and/or grammar on the writing portion of the examination.

(5) mechanical or electronic devices or other assistive devices that are not used solely to record the eligible pupil's or eligible adult student's responses, including but not limited to transcribers, scribes, voice recognition or voice-to-text software, and that identify a potential error in the eligible pupil's or eligible adult student's response or that correct spelling, grammar or conventions on the writing portion of the examination.

(6) responses dictated orally, in Manually Coded English, or in American Sign Language to provide an essay response to a scribe and the scribe provides spelling, grammar, and language conventions.

(7) dictionary on any section of the examination.

(c) For the purposes of receiving a high school diploma, an eligible pupil or eligible adult student who takes the examination with one or more modifications shall receive a score that is not valid for the sections of the examination on which the modifications were used. If the score is equivalent to a passing score, the eligible pupil or eligible adult student may be eligible for a waiver pursuant to Education Code section 60851.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 12–21–2001; operative 1–20–2002 (Register 2001, No. 51).
2. Amendment of NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of section heading and repealer and new section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment of section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment of subsections (b)(2)–(3) and (c) and repealer of subsection (d) filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1217. English Learners.

School districts shall provide identified English learner pupils or adult English learner students the following additional testing variations if regularly used in the classroom or for assessment:

(a) Flexible setting. English learners may have the opportunity to be tested in a separate room with other English learners provided that the eligible pupil or eligible adult student is directly supervised by an employee of the school, district, or nonpublic school, who has signed the Test Security Affidavit.

(b) Flexible schedule. English learners may have additional supervised breaks within a testing day.

(c) Flexible time. English learners may have extra time on the examination within a testing day.

(d) Translated directions. English learners may have the opportunity to hear the test directions printed in the test contractor's manual translated into their primary language. English learners may have the opportunity to ask clarifying questions about the test directions in their primary language.

(e) Glossaries. English learners may have access to translation glossaries (English to primary language and/or primary language to English). The glossaries are to include only the English word or phrase with the corresponding primary language word or phrase. The glossaries shall include no definitions, formulas, or parts of speech.

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: Sections 60810(7)(d)(1), 60850 and 60852, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 12–21–2001; operative 1–20–2002 (Register 2001, No. 51).
2. Amendment of section heading, subsection (e) and NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Renumbering of former section 1217 to section 1215.5 and renumbering of former section 1217.5 to section 1217, including amendment of section heading, section and NOTE, filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment of section and NOTE filed 8–16–2005; operative 8–16–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Redesignation of former subsections (1)–(5) as new subsections (a)–(e) and amendment of newly designated subsection (e) filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1217.5. English Language Learners.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

HISTORY

1. New section filed 12–21–2001; operative 1–20–2002 (Register 2001, No. 51).
2. Amendment of NOTE filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Renumbering of former section 1217.5 to section 1217 filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

§ 1218. Review Process for Variations Not Specified in Sections 1215, 1215.5, or 1216 in Administering the Examination.

(a) The school district must file a request with the CDE for review and approval of proposed examination variations that are not specified in sections 1215, 1215.5, or 1216. Requests must be received by the CDE at least 30 working days in advance of the proposed administration of the examination.

(b) The request for review of proposed variations in administering the examination must include:

(1) A description of the requested variation(s).

(2) If applicable, a certification that the pupil's or adult student's IEP or Section 504 plan specifies that the requested variation is appropriate and necessary to access the examination due to the pupil's or adult student's identified disability(ies) and that such variation is currently listed in the pupil's or adult student's IEP or Section 504 plan.

(c) The CDE determination shall be a final administrative decision for purposes of review under the Administrative Procedure Act.

(d) The CDE shall issue its decision within 15 working days of receipt of the request for review of proposed variation.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

HISTORY

1. New section filed 12–21–2001; operative 1–20–2002 (Register 2001, No. 51).
2. Amendment of section heading and section filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
3. Amendment of section heading and subsections (a), (c) and (d) filed 12–20–2007; operative 12–20–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1218.5. Use of Modifications.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60850 and 60851, Education Code; and 34 CFR Section 300.138(a).

HISTORY

1. New section filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
2. Repealer filed 5–19–2004; operative 5–19–2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

§ 1218.6. Waiver Requests on Behalf of Pupils in a State Special School.

(a) For a pupil in a state special school who is eligible for a waiver, at the parent or guardian's request, the state special school principal shall submit a waiver request to the local governing board of the school district that placed the pupil in the state special school.

NOTE: Authority cited: Sections 33031 and 48200, Education Code. Reference: Sections 56101 and 60850, Education Code; and 34 CFR Section 300.138(a).

HISTORY

1. New section filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

§ 1219. Independent Work of the Pupil or Adult Student

In administering the examination with accommodations or modifications pursuant to Section 1215.5 or 1216, school districts shall ensure that all examination responses are the independent work of the pupil or adult student. School districts, school district personnel, including scribes and nonpublic school personnel are prohibited from assisting any pupil or adult student in determining how the pupil or adult student will respond to each question, and are prohibited from leading or directing the pupil or adult student to a particular response, and from correcting, prompting or otherwise influencing a response.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

HISTORY

1. New section filed 12-21-2001; operative 1-20-2002 (Register 2001, No. 51).
2. Amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Amendment filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

§ 1219.5. Invalidation of Test Scores.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60850, Education Code.

HISTORY

1. New section filed 12-21-2001; operative 1-20-2002 (Register 2001, No. 51).
2. Amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Repealer filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

Article 4. Cheating

§ 1220. Cheating.

(a) Any pupil or adult student found by the school district or its agents to have cheated or assisted others in cheating, or to have compromised the security of the examination shall not receive a score from that test administration.

(b) The school district shall notify each eligible pupil or adult student prior to each administration of the examination of the provisions of subdivision (a).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New article 4 (section 1220) and section filed 6-20-2001; operative 7-20-2001 (Register 2001, No. 25).
2. Amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).

Article 5. Apportionment

§ 1225. Apportionment.

(a) Annually, each school district shall receive an apportionment information report with the following information for those examinations administered during the previous fiscal year (July 1 through June 30).

(1) The number of eligible pupils by grade level and eligible adult students enrolled in each school and in the school district on the day of test-

ing as indicated by the number of answer documents submitted to the test contractor for scoring for each administration.

(2) The number of eligible pupils by grade level and eligible adult students who were administered any portion of the examination.

(3) The number of eligible pupils by grade level with demographic information only who were not tested for any reason other than because they were taking the CAPA.

(b) To be eligible for apportionment payment, school districts must meet the following conditions:

(1) The school district has returned all secure test materials;

(2) The superintendent of the school district has certified that all examinations during the prior fiscal year were administered in compliance with California Code of Regulations, title 5, division 1, chapter 2, subchapter 6; and

(3) The superintendent of the school district has certified the accuracy of the apportionment information report for examinations administered during the prior fiscal year (July 1 through June 30), which certification is either:

(A) postmarked by December 31, or

(B) if postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code section 33050. For those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

(c) The amount of funding to be apportioned to the school district for the examination shall be calculated by multiplying the amount per administration established by the SBE to enable school districts to meet the requirements of Education Code section 60851 by the number of eligible pupils and eligible adult students in the school district tested for one or both portions of the examination during the previous fiscal year as determined by the apportionment information report certified by the school district superintendent pursuant to subdivision (b).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60851, Education Code.

HISTORY

1. New article 5 (section 1225) and section filed 6-20-2001; operative 7-20-2001 (Register 2001, No. 25).
2. Amendment of NOTE filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
3. Amendment of subsection (c) and new subsection (d) filed 5-19-2004; operative 5-19-2004 pursuant to Government Code section 11343.4(c) (Register 2004, No. 21).
4. Repealer and new subsections (a) and (b), amendment of subsection (c) and repealer of subsection (d) filed 8-16-2005; operative 8-16-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 33).
5. Amendment of subsection (b)(1), new subsection (b)(2), subsection renumbering and amendment of newly designated subsection (b)(3) and subsection (c) filed 12-20-2007; operative 12-20-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

Subchapter 7. Graduation of Pupils from Grade 12 and Credit Toward Graduation

Article 1. Measurement of Credit Toward Graduation from Grade 12

§ 1600. Definitions.

For the purposes of this chapter:

(a) "Semester period" and the "time equivalent to a semester period" mean:

(1) One period of 40 to 60 minutes of instructional time per week throughout one semester of no less than 17 weeks.

(2) A minimum of 12 clock hours of instructional time provided during the academic year or in a summer school.

(b) "Semester period" and the "content equivalent to a semester period" mean:

(1) While the content to be covered is planned within the time frames referred to in (a), a student may be granted one semester period of credit even though the student spends less than the aforementioned amount of time in completing the necessary work.

NOTE: Authority cited: Section 33031, Education Code.

HISTORY

1. Repealer of Article 1 (Sections 1600 through 1602) filed 4-17-73; effective thirtieth day thereafter (Register 73, No. 16). For prior history, see Register 69, No. 39.
2. New Article 1 (§ 1600) filed 3-7-74; effective thirtieth day thereafter (Register 74, No. 10).
3. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Credit Toward High School Graduation

§ 1630. Credit for College Courses.

NOTE: Authority cited: Sections 51740 and 51760, Education Code.

HISTORY

1. New Article 2 (§§ 1630 through 1635) filed 7-22-69; effective thirtieth day thereafter (Register 69, No. 30).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Change without regulatory effect repealing section filed 9-1-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 35).

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§ 1631. Credit for Private Instruction.

The governing board may grant to a pupil regularly enrolled and in attendance in a high school, credit toward graduation from Grade 12 for private instruction in fields and subject included in the courses of study and curricula of the school. The pupil shall demonstrate, by examinations given under the direction and supervision of the school, his capabilities at the beginning and at the end of his period of private instruction and evidence that he has made progress in learning satisfactory to the school.

§ 1632. Credit for Private School Foreign Language Instruction.

If all of the following conditions and standards are met, credit for foreign language studies successfully completed in a private school shall be granted and apply toward meeting any foreign language requirement prescribed for grades 9–12.

(a) The pupil seeking credit is regularly enrolled and in attendance in grade 9–12 of the district or is applying for admission thereto.

(b) The pupil, or his parent or guardian, on behalf of the pupil, makes written application for the credit, specifying the private school attended and the amount and level of credit requested; and submits a transcript or other documents from the private school evidencing the pupil's successful completion of the course. The amount of credit sought shall not be less than one semester's work or the equivalent.

(c) The pupil demonstrates to the satisfaction of the principal of the public school in which he is enrolled that his achievement in the foreign language is equivalent to that expected of a pupil of comparable ability taking the same or similar instruction at the specified level in the schools of the district. The principal's determination shall be based upon the private school's report of the results of a test given the pupil by the private school; the test shall have been developed by the private school in cooperation with the district of the pupil's attendance. If the institution was a school located outside the district, the determination may be based upon a test given the student by a public school or such other evidence as the principal deems appropriate.

NOTE: Specific authority cited: Section 8705, Education Code.

§ 1633. Credit for Correspondence Instruction.

Credit toward graduation may be granted for correspondence instruction that meets the requirements of (a) and (b), is in a subject included in the pupil's course of study, and is given by an institution described in Education Code Section 51740.

Payment of the cost of correspondence instruction may be made by the district, only if the requirements of Education Code Section 51740 or 51741, as applicable, are met and all of the following conditions are fulfilled:

(a) The governing board determined the number of semester periods to be credited for successful completion of a particular correspondence course.

(b) No more than 40 semester periods of instruction by correspondence is credited to a pupil toward his graduation from grade 12.

(c) The district applied, on a form furnished by the State Department of Education and in accordance with the directions thereon, for authorization to provide the correspondence instruction; and the Superintendent of Public Instruction authorized it.

HISTORY

1. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 1634. Credit to Present or Past Members of the Armed Services.

The governing board maintaining a four-year high school or a senior high school may award a diploma of graduation from Grade 12 to a person described in Education Code Section 51440 who meets the graduation requirements adopted by the governing board pursuant to Education Code Section 51225, or their equivalent. The governing board shall keep a permanent record of the credit allowed pursuant to this section. Credit

toward graduation may be allowed to such a person in accordance with the following table:

<i>Work Successfully Completed</i>	<i>Maximum Semester Periods of Credit Allowable</i>
(a) Basic or recruit training program with the Armed Forces of the United States.	30
(b) Specialist or technical training program in the United States military services evidenced by certification of the U.S. Armed Forces Institute, provided the training is in subjects that parallel courses usually taught in high school.	20 for each course
(c) A training course, as a member of the Armed Forces, in a vocation that is found in civilian life.	20 for each course
(d) General Educational Development Tests (high school level) prepared by the American Council on Education with both:	No limit
(1) A standard score of 40, or above, on each of the tests in the battery.	
(2) An average standard score of 45, or above.	
(e) Work experience in the Armed Forces that parallels a course or courses (usually taught in high schools, evidenced by a statement upon the serviceman's record.	20
(f) Classes completed in either:	5 for each semester course completed
(1) A public high school in the United States.	
(2) A private high school of equivalent status in the United States.	
(g) Classes in subjects included in the high school course of study completed in a junior college or college in the United States accredited by a regional accrediting association.	3 1/3 for each one credit hour allowed by the junior college or college in which the class was taken.

NOTE: Authority cited: Section 51440, Education Code. Reference: Sections 51420 and 51440, Education Code.

HISTORY

1. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment of subsection (d)(1) filed 7–28–86; effective upon filing (Register 86, No. 31).

§ 1635. Credit for Work Experience Education.

The governing board shall grant to a pupil for the satisfactory completion of work experience education established under Education Code Section 51760 credit in an amount not to exceed a total of 40 semester periods made up of one or a combination of two or more of the following types:

(a) For Exploratory Work Experience Education: Ten (10) semester periods for each semester, with a maximum of twenty (20) semester periods earned in two semesters.

(b) For General Work Experience Education: Ten (10) semester periods for each semester with a maximum of forty (40) semester periods.

(c) For Vocational Work Experience Education: Ten (10) semester periods for each semester with a maximum of forty (40) semester periods.

HISTORY

1. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Article 3. Diploma of Graduation**§ 1650. Time of Granting Diploma.**

Except as provided in Section 1651, the governing board shall award the diploma of graduation from grade 12 at the end of the semester or summer school session during which the student completed the course of study prescribed by the governing board.

HISTORY

1. New Article 3 (Sections 1650 and 1651) filed 7–22–69; effective thirtieth day thereafter (Register 69, No. 30).

§ 1651. Time of Granting Diploma upon Evaluation (Veterans).

If the governing board evaluates preparation of a person described in Education Code Section 51440 as provided in Section 1634, and finds that he meets the graduation requirements or their equivalent specified in that section, it may award him a diploma of graduation immediately.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Chapter 3. Handicapped Children

Subchapter 1. Special Education

Article 1. General Provisions

§ 3000. Scope.

(a) This chapter applies to those special education programs which are administered under a local plan as defined in Section 56027 and Part 30 of the Education Code. Provisions of this chapter shall be construed as supplemental to, and in the context of, Federal laws and regulations relating to individuals with exceptional needs in effect on January 1, 1981, and state laws and regulations relating to individuals with exceptional needs. The intent of this chapter is to assure conformity with the Education for All Handicapped Children Act, Public Law 94-142 (20 USC 1401, et seq.) and Section 504 of the Rehabilitation Act of 1973, Public Law 93-112 (29 USC 794), and their implementing regulations including Title 34, Code of Federal Regulations, Sections 300.1 et seq.; Sections 104.1 et seq.; and Sections 76.1 et seq.

(b) A school district, special education local plan area, or county office shall use federal, state, local, and private sources of support which are available to provide services as specified in an individualized education program.

(c) Nothing in this chapter relieves any other agency from an otherwise valid obligation to provide or pay for services for individuals with exceptional needs. Clarification and specificity of responsibilities shall be included in but not limited to interagency agreements.

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference: sections 56000-56001, Education Code; and 34 CFR 300.301.

HISTORY

1. Repealer of Division 3, Chapters 1-5 (sections 3100-3797, not consecutive) and new Division 3, Chapter 1, Articles 1-7, (sections 300-3080, not consecutive) filed 2-3-82; effective thirtieth day thereafter (Register 82, No. 6). For prior history of former Division 3, see Registers 80, No. 23; 80, No. 12; 79, No. 38; and 79, No. 16.

2. Amendment of subsection (b) filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3001. Definitions.

In addition to those found in Education Code sections 56020-56033, Public Law 94-142 as amended (20 USC 1401 et seq.), and Title 34, Code of Federal Regulations, Part 300 and 301, the following definitions are provided:

(a) "Applicant" means an individual, firm, partnership, association, or corporation who has made application for certification as a nonpublic, nonsectarian school, or agency.

(b) "Assessment and development of the individualized education program" (IEP) means services described in Education Code sections 56320 et seq. and 56340 et seq.

(c) "Behavioral emergency" is the demonstration of a serious behavior problem: (1) which has not previously been observed and for which a behavioral intervention plan has not been developed; or (2) for which a previously designed behavioral intervention is not effective. Approved behavioral emergency procedures must be outlined in the special education local planning area (SELPA) local plan.

(d) "Behavioral intervention" means the systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation, and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. "Behavioral interventions" are designed to provide the individual with greater access to a variety of community settings, social contacts and public events; and ensure the individual's right to placement in the least restrictive educational environment as outlined in the individual's IEP. "Behavioral interventions" do not include procedures which cause pain or trauma. "Behavioral interventions" respect the individual's human dignity and personal privacy. Such interventions shall assure the individual's physical freedom, social interaction, and individual choice.

(e) "Behavioral intervention case manager" means a designated certificated school/district/county/nonpublic school or agency staff member(s) or other qualified personnel pursuant to subsection (ac) contracted by the school district or county office or nonpublic school or agency who has been trained in behavior analysis with an emphasis on positive behavioral interventions. The "behavioral intervention case manager" is not intended to be a new staffing requirement and does not create any new credentialing or degree requirements. The duties of the "behavioral intervention case manager" may be performed by any existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions, including, but not limited to, a teacher, resource specialist, school psychologist, or program specialist.

(f) "Behavioral intervention plan" is a written document which is developed when the individual exhibits a serious behavior problem that significantly interferes with the implementation of the goals and objectives of the individual's IEP. The "behavioral intervention plan" shall become part of the IEP. The plan shall describe the frequency of the consultation to be provided by the behavioral intervention case manager to the staff members and parents who are responsible for implementing the plan. A copy of the plan shall be provided to the person or agency responsible for implementation in noneducational settings. The plan shall include the following:

(1) a summary of relevant and determinative information gathered from a functional analysis assessment;

(2) an objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s);

(3) the individual's goals and objectives specific to the behavioral intervention plan;

(4) a detailed description of the behavioral interventions to be used and the circumstances for their use;

(5) specific schedules for recording the frequency of the use of the interventions and the frequency of the targeted and replacement behaviors; including specific criteria for discontinuing the use of the intervention for lack of effectiveness or replacing it with an identified and specified alternative;

(6) criteria by which the procedure will be faded or phased-out, or less intense/frequent restrictive behavioral intervention schedules or techniques will be used;

(7) those behavioral interventions which will be used in the home, residential facility, work site or other noneducational settings; and

(8) specific dates for periodic review by the IEP team of the efficacy of the program.

(g) "Board" means the State Board of Education.

(h) "Certification" means authorization by the State Superintendent of Public Instruction (Superintendent) for a nonpublic school or nonpublic agency to service individuals with exceptional needs under a contract pursuant to the provisions of Education Code section 56366(c).

(i) "Contracting education agency," means school district, special education local plan area, or county office of education.

(j) "Credential" means any valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or

under the jurisdiction of, the State board of Education prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required.

(k) "Department" means the California Department of Education.

(l) "Department of Consumer Affairs" means the California Department of Consumer Affairs.

(m) "Dual enrollment" means the concurrent attendance of the individual in a public education agency and a nonpublic school and/or a nonpublic agency.

(n) "Feasible" as used in Education Code section 56363(a) means the individualized education program team:

(1) has determined the regular class teacher, special class teacher, and/or resource specialist possesses the necessary competencies and credentials/certificates to provide the designated instruction and service specified in the individualized education program, and

(2) has considered the time and activities required to prepare for and provide the designated instruction and service by the regular class teacher, special class teacher, and/or resource specialist.

(o) "Free appropriate public education" means special education and related services that:

(1) have been provided at public expense, under public supervision and direction and without charge;

(2) meets any of the standards established by state or federal law;

(3) include an appropriate preschool, elementary, or secondary school education in California; and

(4) are provided in conformity with the individualized education program required under state and federal law.

(p) "Individual Services Agreement" means a document, prepared by the local education agency, that specifies the length of time for which special education and designated instruction and services are to be provided, by nonpublic schools and/or nonpublic agencies, to individuals with exceptional needs.

(q) "Instructional day" shall be the same period of time as regular school day for that chronological peer group unless otherwise specified in the individualized education program.

(r) "License" means a valid nonexpired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license.

(s) Linguistically appropriate goals, objectives, and programs means:

(1)(A) Those activities which lead to the development of English language proficiency; and

(B) Those instructional systems either at the elementary or secondary level which meet the language development needs of the English language learner.

(2) For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311(c), including a program provided in the individual's primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

(t) "Local education agency" means a public board of education or other public authority legally constituted in California for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of California, or such combination of

school districts or counties as are recognized in California as an administrative agency for its public elementary or secondary schools.

(u) "Local governing board," means either district or county board of education.

(v) "Master contract" means the legal document that binds the public education agency and the nonpublic school or nonpublic agency.

(w) "Nonsectarian" means a private, nonpublic school or agency that is not owned, operated, controlled by, or formally affiliated with a religious group or sect, whatever might be the actual character of the education program or the primary purpose of the facility and whose articles of incorporation and/or by-laws stipulate that the assets of such agency or corporation will not inure to the benefit of a religious group.

(x) "Primary language" means the language other than English, or other mode of communication, the person first learned, or the language which is spoken in the person's home.

(y) "Qualified" means that a person has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities in services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.

(z) "Related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children. Related services include, but are not limited to, Designated Instruction and Services. The list of related services is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. Each related service defined under this part may include appropriate administrative and supervisory activities that are necessary for program planning, management, and evaluation.

(aa) "Serious behavior problems" means the individual's behaviors which are self-injurious, assaultive, or cause serious property damage and other severe behavior problems that are pervasive and maladaptive for which instructional/behavioral approaches specified in the student's IEP are found to be ineffective.

(ab) "Specified education placement" means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the IEP, in any one or a combination of public, private, home and hospital, or residential setting. The IEP team shall document its rationale for placement in other than the pupil's school and classroom in which the pupil would otherwise attend if the pupil were not disabled. The documentation shall indicate why the pupil's disability prevents his or her needs from being met in a less restrictive environment even with the use of supplementary aids and services.

(ac) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of individuals with exceptional needs whose educational needs cannot be met with modification of the regular instruction program, and related services, at no cost to the parent, that may be needed to assist these individuals to benefit from specially designed instruction.

(ad) "Specialized physical health care services" means those health services prescribed by the individual's licensed physician and surgeon requiring medically related training for the individual who performs the services and which are necessary during the school day to enable the individual to attend school.

(ae) "Superintendent" means the State Superintendent of Public Instruction.

(af) "Temporary physical disability" means a disability incurred while an individual was in a regular education class and which at the termination of the temporary physical disability, the individual can, without special intervention, reasonably be expected to return to his or her regular education class.

NOTE: Authority cited: Sections 56100 and 56523(a), Education Code. Reference: Sections 33000, 33300, 49423.5, 56026, 56034, 56320, 56361, 56366, 56520 and 56523, Education Code; Section 2, Article IX, Constitution of the State of California; Sections 1401(8) and (17), United States Code, Title 20; and Sections 300.4 and 300.12, Code of Federal Regulations, Title 34.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).
2. New subsections (c)-(f)(8) and (y) and subsection relettering, amendment of newly designated subsections (j), (k), (p)(1)(B)-(p)(3), (r), (s), (v), (z) and (aa), and amendment of opening paragraph and NOTE filed 4-20-93; operative 5-20-93 (Register 93, No. 17).
3. Editorial correction of subsection (b) (Register 96, No. 8).
4. Amendment of subsections (f), (f)(7), (j) and (y) filed 2-23-96 as an emergency; operative 2-23-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-22-96 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of subsection (j) (Register 96, No. 32).
6. Certificate of Compliance as to 2-23-96 order transmitted to OAL 6-21-96 and filed 8-5-96 (Register 96, No. 32).
7. Amendment of section and NOTE filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day.
8. Amendment of section and NOTE refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section and NOTE as they existed prior to 7-18-97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 16).
10. Amendment of section and NOTE filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.
11. Reinstatement of section and NOTE as they existed prior to 4-16-98 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 34).
12. Amendment of first paragraph, new subsections (c), (d), (n), (v), (w), (z), (aa), (ae), (ag) and (ak), subsection relettering, amendment of newly designated subsections (f), (g), (i), (o), (q), (r), (s)(2), (x), (y), (ab), (ac) and (ad), and amendment of NOTE filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
13. Reinstatement of section and NOTE as they existed prior to 8-19-98 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 52).
14. Amendment of first paragraph, new subsections (c), (d), (n), (v), (w), (z), (aa), (ae), (ag) and (ak), subsection relettering, amendment of newly designated subsections (f), (g), (i), (o), (q), (r) and (s)(1)(A)-(B), repealer of subsection (s)(2), subsection renumbering, amendment of newly designated subsections (s)(2), (x), (y), (ab), (ac), (ad) and amendment of NOTE filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.
15. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 3-25-99 order, including amendment of section and NOTE, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

Article 2. Administration

§ 3010. Other Public Agencies.

Educational programs and services administered by other public agencies which provide educational programs and services to individuals with exceptional needs shall adhere to the provisions of federal and state laws and regulations relating to individuals with exceptional needs.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 CFR 300.600. Reference: Sections 56000, 56100(i) and 56500, Education Code; and 34 CFR 300.2, 30.11, 300.60.

Article 3. Identification, Referral, and Assessment

§ 3021. Referral.

(a) All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, staff of the school district, special education local plan area, or county office shall offer assistance to the individual in making a request in writing, and shall assist the individual if the individual requests such assistance.

(b) All school staff referrals shall be written and include:

(1) A brief reason for the referral.

(2) Documentation of the resources of the regular education program that have been considered, modified, and when appropriate, the results of intervention. This documentation shall not delay the time-lines for completing the assessment plan or assessment.

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code; Reference: Sections 56300-56303, Education Code; and 34 CFR 300.128 and 300.220.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3021.1. Referral of Pupils Having a Diagnosed Chronic Illness.

(a) When a pupil has been medically diagnosed as having a chronic illness or acute health problem, the pupil may be referred to the school district or county office for an assessment to determine the need for special education.

(b) The following information shall be reviewed by the individualized education program team:

(1) The type of chronic illness;

(2) The possible medical side effects and complications of treatment that could affect school functioning;

(3) The educational and social implications of the disease and treatment to include but not limited to the likelihood of fatigue, absences, changes in physical appearance, amputations, or problems with fine and gross motor control, and

(4) Special considerations necessitated by outbreaks of infectious diseases, if applicable.

(c) The individualized education program team shall designate the school's liaison with the pupil's primary health provider.

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference: Sections 56300-56303, Education Code; and 34 CFR 300.128 and 300.220.

HISTORY

1. New section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3022. Assessment Plan.

In addition to the assessment plan requirements of Education Code Section 56321, the proposed written assessment plan shall include a description of any recent assessments conducted, including any available independent assessments and any assessment information the parent requests to be considered, and information indicating the pupil's primary language and the pupil's language proficiency in the primary language as determined by Education Code Section 52164.1.

NOTE: Authority cited: Section 56100(a), (i), (j), Education Code; and 20 U.S.C. 1414(c)(2)(B). Reference: Sections 56321, 56329, Education Code; and 34 CFR 300.500-502, and 300.515-541.

§ 3023. Assessment.

(a) In addition to provisions of Education Code Section 56320, assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected.

(b) The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition.

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference: Sections 56001, 56320, 56324 and 56327, Education Code; and 34 CFR 300.530, 300.532 and 300.543.

HISTORY

1. Amendment of subsection (a) filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3024. Transfer.

In addition to the requirements specified in Education Code Section 56325 and all applicable sections in this chapter, the following shall apply:

(a) Transfer of Records. Upon receipt of a request from an educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy thereof, within five working days.

(b) Transition from Elementary School District to High School District.

When a pupil is to enroll in a high school district from an elementary district, the elementary district shall invite the high school district to the individualized education program team meeting prior to the last scheduled review. If the authorized high school personnel participate with the elementary district personnel in the individualized education program team meeting, the individualized education program shall specify the appropriate high school placement.

If the authorized representative of the high school district has not participated in the individualized education program development prior to transfer from the elementary program, the elementary school district shall notify the high school district of those individuals with exceptional needs who require special education and related services. For each pupil listed who enrolls in the high school district, the administrator shall make an interim placement in accordance with Education Code 56325 or shall immediately convene an individualized education program team meeting.

NOTE: Authority cited: Sections 49068 and 56100(a), Education Code. Reference: Sections 49068 and 56325, Education Code.

§ 3025. Assessment Option: Referral to State Schools for Further Assessment.

(a) Prior to referring a pupil for further assessment to California Schools for the Deaf or Blind or the Diagnostic Schools, districts, special education local plan areas, counties, or other agencies providing education services, shall first conduct assessments at the local level within the capabilities of that agency. Results of local assessments shall be provided to parent(s) and shall state the reasons for referral to the State School. Results of local assessments shall accompany the referral request.

(b) The Schools for the Deaf and Blind and the Diagnostic Schools shall conduct assessments pursuant to the provisions of Education Code Section 56320 et seq.

(c) A representative of the district, special education local plan areas, or county individualized education program team shall participate in the staffing meeting and shall receive the final report and recommendations. Conference calls are acceptable forms of participation, provided that written reports and recommendations have been received by the representative prior to the meeting.

NOTE: Authority cited: Section 56100(a), Education Code. Reference: Section 56326, Education Code.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3027. Hearing and Vision Screening.

All pupils being assessed for initial and three-year review for special education services shall have had a hearing and vision screening, unless parental permission was denied.

NOTE: Authority cited: Section 56100(a), Education Code. Reference: Sections 56320, 56321 and 56327, Education Code; and 34 CFR 300.532.

§ 3028. Audiological Assessment.

All pupils continuing to fail a threshold hearing test shall be assessed by a licensed or credentialed audiologist and such assessment shall be a part of the assessment plan.

NOTE: Authority cited: Section 56100(a), Education Code. Reference: Sections 56320 and 56327, Education Code; and 34 CFR 300.532.

§ 3029. Contracting for Individually Administered Tests of Psychological Functioning Due to the Unavailability of School Psychologists.

(a) School districts, county offices, and special education local plan areas shall ensure that credentialed school psychologists are available to perform individually administered tests of intellectual or emotional functioning pursuant to Section 56320(b)(3) of the Education Code.

(b) Due to the temporary unavailability of a credentialed school psychologist, a school district or county office may contract with qualified personnel to perform individually administered tests of intellectual or emotional functioning including necessary reports pursuant to Section 56327 of the Education Code.

(c) The district or county office shall seek appropriately credentialed school psychologists for employment. These efforts, which include but are not limited to contacting institutions of higher education having approved school psychology programs and utilizing established personnel recruitment practices, shall be documented and available for review.

(d) The only persons qualified to provide assessment services under this section shall be educational psychologists licensed by the Board of Behavioral Science Examiners.

NOTE: Authority cited: Sections 56100(a) and 56320(f), Education Code. Reference: Sections 56320(b) and 56327, Education Code.

HISTORY

1. New section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

Article 3.1. Individuals with Exceptional Needs**§ 3030. Eligibility Criteria.**

A pupil shall qualify as an individual with exceptional needs, pursuant to Section 56026 of the Education Code, if the results of the assessment as required by Section 56320 demonstrate that the degree of the pupil's impairment as described in Section 3030 (a through j) requires special education in one or more of the program options authorized by Section 56361 of the Education Code. The decision as to the whether or not the assessment results demonstrate that the degree of the pupil's impairment requires special education shall be made by the individualized education program team, including personnel in accordance with Section 56341(d) of the Education Code. The individualized education program team shall take into account all the relevant material which is available on the pupil. No single score or product of scores shall be used as the sole criterion for the decision of the individualized education program team as to the pupil's eligibility for special education. The specific processes and procedures for implementation of these criteria shall be developed by each Special Education Local Plan Area and be included in the local plan pursuant to Section 56220(a) of the Education Code.

(a) A pupil has a hearing impairment, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects educational performance. Processing linguistic information includes speech and language reception and speech and language discrimination.

(b) A pupil has concomitant hearing and visual impairments, the combination of which causes severe communication, developmental, and educational problems.

(c) A pupil has a language or speech disorder as defined in Section 56333 of the Education Code, and it is determined that the pupil's disorder meets one or more of the following criteria:

(1) Articulation disorder.

(A) The pupil displays reduced intelligibility or an inability to use the speech mechanism which significantly interferes with communication and attracts adverse attention. Significant interference in communication occurs when the pupil's production of single or multiple speech sounds on a developmental scale of articulation competency is below that expected for his or her chronological age or developmental level, and which adversely affects educational performance.

(B) A pupil does not meet the criteria for an articulation disorder if the sole assessed disability is an abnormal swallowing pattern.

(2) Abnormal Voice. A pupil has an abnormal voice which is characterized by persistent, defective voice quality, pitch, or loudness.

(3) Fluency Disorders. A pupil has a fluency disorder when the flow of verbal expression including rate and rhythm adversely affects communication between the pupil and listener.

(4) Language Disorder. The pupil has an expressive or receptive language disorder when he or she meets one of the following criteria:

(A) The pupil scores at least 1.5 standard deviations below the mean, or below the 7th percentile, for his or her chronological age or developmental level on two or more standardized tests in one or more of the following areas of language development: morphology, syntax, semantics, or pragmatics. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified on the assessment plan, or

(B) The pupil scores at least 1.5 standard deviations below the mean or the score is below the 7th percentile for his or her chronological age or developmental level on one or more standardized tests in one of the areas listed in subsection (A) and displays inappropriate or inadequate usage of expressive or receptive language as measured by a representative spontaneous or elicited language sample of a minimum of fifty utterances. The language sample must be recorded or transcribed and analyzed, and the results included in the assessment report. If the pupil is unable to produce this sample, the language, speech, and hearing specialist shall document why a fifty utterance sample was not obtainable and the contexts in which attempts were made to elicit the sample. When standardized tests are considered to be invalid for the specific pupil, the expected language performance level shall be determined by alternative means as specified in the assessment plan.

(d) A pupil has a visual impairment which, even with correction, adversely affects a pupil's educational performance.

(e) A pupil has a severe orthopedic impairment which adversely affects the pupil's educational performance. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

(f) A pupil has limited strength, vitality or alertness, due to chronic or acute health problems, including but not limited to a heart condition, cancer, leukemia, rheumatic fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning, diabetes, tuberculosis and other communicable infectious diseases, and hematological disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's educational performance. In accordance with Section 5626(e) of the Education Code, such physical disabilities shall not be temporary in nature as defined by Section 3001(v).

(g) A pupil exhibits any combination of the following autistic-like behaviors, to include but not limited to:

(1) An inability to use oral language for appropriate communication.

(2) A history of extreme withdrawal or relating to people inappropriately and continued impairment in social interaction from infancy through early childhood.

(3) An obsession to maintain sameness.

(4) Extreme preoccupation with objects or inappropriate use of objects or both.

(5) Extreme resistance to controls.

(6) Displays peculiar motoric mannerisms and motility patterns.

(7) Self-stimulating, ritualistic behavior.

(h) A pupil has significantly below average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affect a pupil's educational performance.

(i) Because of a serious emotional disturbance, a pupil exhibits one or more of the following characteristics over a long period of time and to a marked degree, which adversely affect educational performance:

(1) An inability to learn which cannot be explained by intellectual, sensory, or health factors.

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(3) Inappropriate types of behavior or feelings under normal circumstances exhibited in several situations.

(4) A general pervasive mood of unhappiness or depression.

(5) A tendency to develop physical symptoms or fears associated with personal or school problems.

(j) A pupil has a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical calculations, and has a severe discrepancy between intellectual ability and achievement in one or more of the academic areas specified in Section 56337(a) of the Education Code. For the purpose of Section 3030(j):

(1) Basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities including association, conceptualization and expression.

(2) Intellectual ability includes both acquired learning and learning potential and shall be determined by a systematic assessment of intellectual functioning.

(3) The level of achievement includes the pupil's level of competence in materials and subject matter explicitly taught in school and shall be measured by standardized achievement tests.

(4) The decision as to whether or not a severe discrepancy exists shall be made by the individualized education program team, including assessment personnel in accordance with Section 56341(d), which takes into account all relevant material which is available on the pupil. No single score or product of scores, test or procedure shall be used as the sole criterion for the decisions of the individualized education program team as to the pupil's eligibility for special education. In determining the existence of a severe discrepancy, the individualized education program team shall use the following procedures:

(A) When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the ability test score to be compared; second, computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard score points, indicates a severe discrepancy when such discrepancy is corroborated by other assessment data which may include other tests, scales, instruments, observations and work samples, as appropriate.

(B) When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan.

(C) If the standardized tests do not reveal a severe discrepancy as defined in subparagraphs (A) or (B) above, the individualized education program team may find that a severe discrepancy does exist, provided

that the team documents in a written report that the severe discrepancy between ability and achievement exists as a result of a disorder in one or more of the basic psychological processes. The report shall include a statement of the area, the degree, and the basis and method used in determining the discrepancy. The report shall contain information considered by the team which shall include, but not be limited to:

1. Data obtained from standardized assessment instruments;
2. Information provided by the parent;
3. Information provided by the pupil's present teacher;
4. Evidence of the pupil's performance in the regular and/or special education classroom obtained from observations, work samples, and group test scores;
5. Consideration of the pupil's age, particularly for young children; and
6. Any additional relevant information.

(5) The discrepancy shall not be primarily the result of limited school experience or poor school attendance.

NOTE: Authority cited: Statutes of 1981, Chapter 1094, Section 25(a); and Section 56100(a), (g) and (i), Education Code. Reference: 20 USC 1401(a)(15) and 1412(5); 34 CFR 300.5(b)(7) and (9), 300.532(a)(2), (d) and (e), 300.533, 300.540, 300.541–43; and Sections 56026, 56320, 56333 and 56337, Education Code.

HISTORY

1. New Article 3.1 (Sections 3030 and 3031) filed 1–31–83; effective thirtieth day thereafter (Register 83, No. 6).
2. Amendment filed 2–11–86; effective thirtieth day thereafter (Register 86, No. 7).
3. Amendment filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

§ 3031. Additional Eligibility Criteria for Individuals with Exceptional Needs—Age Birth to Four Years and Nine Months.

(a) A child, age birth to four years and nine months, shall qualify as an individual with exceptional needs pursuant to Education Code Section 56026(c)(1) and (2) if the Individualized Education Program Team determines that the child meets the following criteria:

(1) Is identified as an individual with exceptional needs pursuant to Section 3030, and

(2) Is identified as requiring intensive special education and services by meeting one of the following:

(A) The child is functioning at or below 50% of his or her chronological age level in any one of the following skill areas:

1. gross or fine motor development;
2. receptive or expressive language development;
3. social or emotional development;
4. cognitive development; and
5. visual development.

(B) The child is functioning between 51% and 75% of his or her chronological age level in any two of the skill areas identified in Section 3031(2)(A).

(C) The child has a disabling medical condition or congenital syndrome which the Individualized Education Program Team determines has a high predictability of requiring intensive special education and services.

(b) Programs for individuals with exceptional needs younger than three years of age are permissive in accordance with Section 56001(c) of the Education Code except for those programs mandated pursuant to Section 56425 of the Education Code.

NOTE: Authority cited: Statutes of 1981, Chapter 1094, Section 25(a); and Section 56100(a), (g) and (i), Education Code. Reference: 20 USC 1401(a)(15); 34 CFR 300.5; Statutes of 1981, Chapter 1094, Section 25(a); and Sections 56026, 56030.5, 56333, and 56337, Education Code.

HISTORY

1. Amendment of subsection (a)(2) filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

Article 4. Instructional Planning and Individualized Education Program

§ 3040. Individualized Education Program Implementation.

(a) Upon completion of the individualized education program, that individualized education program shall be implemented as soon as possible following the individualized education program team meeting.

(b) A copy of the individualized education program shall be provided to the parents at no cost, and a copy of the individualized education program shall be provided in the primary language at the request of the parent.

(c) The individualized education program shall show a direct relationship between the present levels of performance, the goals and objectives, and the specific educational services to be provide.

NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference: Section 56341, Education Code; and 34 CFR 300.342–300.345.

HISTORY

1. Repealer and new subsection (c) filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

§ 3042. Placement.

(a) Specific educational placement means that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs, as specified in the individualized education program, in any one or a combination of public, private, home and hospital, or residential settings.

(b) The individualized education program team shall document its rationale for placement in other than the pupil's school and classroom in which the pupil would otherwise attend if the pupil were not handicapped. The documentation shall indicate why the pupil's handicap prevents his or her needs from being met in a less restrictive environment even with the use of supplementary aids and services.

HISTORY

1. New section filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

§ 3043. Extended School Year.

Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such a program and includes extended school year in the individualized education program pursuant to subsection (f).

(a) Extended year special education and related services shall be provided by a school district, special education local plan area, or county office offering programs during the regular academic year.

(b) Individuals with exceptional needs who may require an extended school year are those who:

(1) Are placed in special classes or centers; or

(2) Are individuals with exceptional needs whose individualized education programs specify an extended year program as determined by the Individualized Education Program Team.

(c) The term "extended year" as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. The term "academic year" as used in this section means that portion of the school year during which the regular day school is maintained, which period must include not less than the number of days required to entitle the district, special education services region, or county office to apportionments of state funds.

(d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays. For reimbursement purposes:

(1) A maximum of 55 instructional days excluding holidays shall be allowed for individuals in special classes or centers for the severely handicapped; and

(2) A maximum of 30 instructional days excluding holidays shall be allowed for all other eligible pupils needing extended year.

(e) A local governing board may increase the number of instructional days during the extended year period, but shall not claim revenue for average daily attendance generated beyond the maximum instructional days allowed in subsection (d)(1) and (2).

(f) An extended year program, when needed, as determined by the Individualized Education Program team, shall be included in the pupil's individualized education program.

(g) In order to qualify for average daily attendance revenue for extended year pupils, all of the following conditions must be met:

(1) Extended year special education shall be the same length of time as the school day for pupils of the same age level attending summer school in the district in which the extended year program is provided, but not less than the minimum school day for that age unless otherwise specified in the individualized education program to meet a pupil's unique needs.

(2) The special education and related services offered during the extended year period are comparable in standards, scope and quality to the special education program offered during the regular academic year.

(h) If during the regular academic year an individual's individualized education program specifies integration in the regular classroom, a public education agency is not required to meet that component of the individualized education program if no regular summer school programs are being offered by that agency.

(i) This section shall not apply to schools which are operating a continuous school program pursuant to Chapter 5 (commencing with Section 37600) of Part 22, Division 3, Title 2, of the Education Code.

NOTE: Authority cited: Section 56100(a) and (j), Education Code. Reference: Sections 37600, 41976.5 and 56345, Education Code; and 34 C.F.R. 300.346.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

Article 5. Implementation (Program Components)

§ 3051. Standards for Designated Instruction and Services (DIS).

(a) General Provisions.

(1) Designated instruction and services may be provided to individuals or to small groups in a specialized area of educational need, and throughout the full continuum of educational settings.

(2) Designated instruction and services, when needed as determined by the individualized education program, shall include the frequency and duration of services.

(3) All entities and individuals providing designated instruction and services shall be qualified.

(4) All entities and individuals providing designated instruction and services shall be:

(A) Employees of the school district or county office, or

(B) Employed under contract pursuant to Education Code sections 56365-56366.7. Such persons shall be certified by the Department pursuant to Sections 3060-3064 of this Title, or

(C) Employees, vendors or contractors of the State Departments of Health Services or Mental Health, or any designated local public health or mental agency.

NOTE: Authority cited: Sections 33031, 56100(a) and (i) and 56366.1(f)(5), Education Code. Reference: Sections 56363 and 56365-56366.7, Education Code; and Section 300.12, Code of Federal Regulations, Title 34.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

2. Amendment of subsections (a)(2) and (a)(3)(B) and NOTE filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day.

3. Amendment of subsections (a)(2) and (a)(3)(B) and amendment of NOTE refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.

4. Reinstatement of section and NOTE as they existed prior to 7-18-97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 16).

5. Amendment of subsections (a)(2) and (a)(3)(B) and amendment of NOTE filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.

6. Reinstatement of section and NOTE as they existed prior to 4-16-98 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 34).

7. Amendment of subsections (a)(2) and (a)(3)(B) and amendment of NOTE filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.

8. Reinstatement of section and NOTE as they existed prior to 8-19-98 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 52).

9. Amendment of subsections (a)(2) and (a)(3)(B)-(C) and amendment of NOTE filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.

10. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 3-25-99 order transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

§ 3051.1. Language, Speech and Hearing Development and Remediation.

(a) An individual holding an appropriate credential with specialization in language, speech and hearing may provide services which include:

(1) Referral and assessment of individuals suspected of having a disorder of language, speech, or hearing. Such individuals are not considered as part of the caseload pursuant to Section 56363.3 of the Education Code unless an individualized education program is developed and services are provided pursuant to Section 3051.1(a)(2) and (3).

(2) Specialized instruction and services for individuals with disorders of language, speech, and hearing, including monitoring of pupil progress on a regular basis, providing information for the review, and when necessary participating in the review and revision of individualized educational programs of pupils.

(3) Consultative services to pupils, parents, teachers, or other school personnel.

(4) Coordination of speech and language services with an individual's regular and special education program.

(b) Caseloads of full-time equivalent language, speech and hearing specialists providing instruction and services within the district, special education local plan area, or county office shall not exceed a district-wide, special education local plan area-wide, or county-wide average of fifty-five (55) individuals unless prior written approval has been granted by the State Superintendent of Public Instruction.

(c) Services may be provided by an aside working under the direct supervision of a credentialed language, speech, and hearing specialist if specified in the individualized education program. No more than two aides may be supervised by one credentialed language, speech, and hearing specialist. The case loads of persons in subsection (b) shall not be increased by the use of noncertificated personnel.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections 56363(b)(1) and Education Code; and 34 CFR 300.13(b)(12).

HISTORY

1. Repealer and new section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.2. Audiological Services.

(a) In addition to provisions of Title 34, Code of Federal Regulations, Section 300.13(b)(1), designated audiological instruction and services may include:

(1) Aural rehabilitation (auditory training, speech reading, language habilitation, and speech conservation) and habilitation with individual pupils or groups and support for the hearing-impaired pupils in the regular classroom.

(2) Monitoring hearing levels, auditory behavior, and amplification for all pupils requiring personal or group amplification in the instructional setting.

(3) Planning, organizing, and implementing an audiology program for individuals with auditory dysfunctions, as specified in the individualized education program.

(4) Consultative services regarding test findings, amplification needs and equipment, otological referrals, home training programs, acoustic treatment of rooms, and coordination of educational services to hearing-impaired individuals.

(b) The person providing audiological services shall hold a valid credential with a specialization in clinical or rehabilitative services in audiology.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Section 56363(b)(2), Education Code; and 34 C.F.R. 300.13(b)(1).

§ 3051.3. Mobility Instruction.

(a) Mobility instruction may include:

(1) Specialized instruction for individuals in orientation and mobility techniques.

(2) Consultative services to other educators and parents regarding instructional planning and implementation of the individualized education program relative to the development of orientation and mobility skills and independent living skills.

(b) The person providing mobility instruction and services shall hold a credential as an orientation and mobility specialist.

NOTE: Authority cited: Section 56100 (a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Section 56363, Education Code.

§ 3051.4. Instruction in the Home or Hospital.

(a) Special education and related services provided in the home or hospital for school age pupils is limited to those pupils who have been identified as individuals with exceptional needs in accordance with Section 3030 and for whom the individualized education program team recommends such instructions or services.

(b) Instructions may be delivered individually, in small groups or by teleclass.

(c) For those individuals with exceptional needs with a medical condition such as those related to surgery, accidents, short-term illness or medical treatment for a chronic illness, the individualized education program team shall review, and revise, if appropriate, the individualized education program whenever there is a significant change in the pupil's current medical condition.

(d) When recommending placement for home instruction, the individualized education program team shall have in the assessment information a medical report from the attending physician and surgeon or the report of the psychologist, as appropriate, stating the diagnosed condition and certifying that the severity of the condition prevents the pupil from attending a less restrictive placement. The report shall include a projected calendar date for the pupil's return to school. The individualized education program team shall meet to reconsider the individualized education program prior to the projected calendar date for the pupil's return to school.

(e) Instruction in the home or hospital shall be provided by a regular class teacher, the special class teacher or the resource specialist teacher, if the teacher or specialist is competent to provide such instruction and services and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction.

(f) The teacher providing the home instruction shall contact the pupil's previous school and teacher to determine:

(1) The course work to be covered;

(2) The books and materials to be used;

(3) Who is responsible for issuing grades and promoting the pupil when appropriate;

(4) For pupils in grades 7 to 12, the teacher shall confer with the school guidance counselor to determine:

(A) For the hours the pupil has earned toward semester course credit in each subject included in the individualized education program and the grade as of the last day of attendance;

(B) Who is responsible for issuing credits when the course work is completed;

(C) Who will issue the diploma if the pupil is to graduate.

NOTE: Section 56100(a) and (i), Education Code. Reference: Sections 56001 and 56363(b)(4), Education Code.

HISTORY

1. New section filed and 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.5. Adapted Physical Education for Individuals with Exceptional Needs.

(a) Adapted physical education is for individuals with exceptional needs who require developmental or corrective instruction and who are precluded from participation in the activities of the general physical education program, modified general physical education program, or in a specially designed physical education program in a special class. Consultative services may be provided to pupils, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the regular "D" Physical education program or specially designed physical education programs.

(b) The person providing instruction and services shall have a credential authorizing the teaching of adapted physical education as established by the Commission on Teacher Credentialing.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: 34 CFR 300.307.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.6. Physical and Occupational Therapy.

(a) When the district, special education local plan area, or county office contracts for the services of a physical therapist or an occupational therapist, the following standards shall apply:

(1) Occupational or physical therapists shall provide services based upon recommendation of the individual education program team. Physical therapy and occupational therapy services for infants are limited by Education Code 5642.6. Physical therapy services may not exceed the services specified in the Business and Professions Code at Section 2620.

(2) The district, special education local plan area, or county office shall assure that the therapist has available safe and appropriate equipment.

(b) Qualifications of therapists:

(1) The therapists shall have graduated from an accredited school.

(2) A physical therapist shall be currently licensed by the Board of Medical Quality Assurance of the State of California and meet the educational standards of the Physical Therapy Examining Committee.

(3) An occupational therapist shall be currently registered with the American Occupational Therapy Association.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(6), Education Code; and 34 CFR 300.13(b)(5) and (7) and 300.600.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.7. Vision Services.

(a) Vision services shall be provided by a Credentialed teacher of the visually handicapped and may include:

(1) Adaptations in curriculum, media, and the environment, as well as instruction in special skills.

(2) Consultative services to pupils, parents, teachers, and other school personnel.

(b) An assessment of and provision for services to visually impaired pupils may be conducted by an eye specialist who has training and expertise in low vision disabilities and has available the appropriate low vision aids for the purpose of assessment. The eye specialist may provide consultation to the pupil, parents, teacher and other school personnel as may be requested by the individualized education program team.

(c) Procedures which may be utilized by qualified personnel are those procedures authorized by federal and state laws and regulations and performed in accordance with these laws and regulations and standards of the profession.

(d) For the purposes of this section, and eye specialist shall mean a licensed optometrist, ophthalmologist, or other licensed physician and surgeon who has training and expertise in low vision disabilities.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections 44265.5 and 56363(b)(7), Education Code.

HISTORY

1. Amendment of subsection (a) and new subsections (b)–(d) filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

§ 3051.75. Vision Therapy.

(a) Vision therapy may include: Remedial and/or developmental instruction provided directly by or in consultation with the optometrist, ophthalmologist, or other qualified licensed physician and surgeon provided ongoing care to the individual.

(b) Vision therapy shall be provided by an optometrist, ophthalmologist, or by appropriate qualified school personnel when prescribed by a licensed optometrist, ophthalmologist, or other qualified licensed physician and surgeon.

(c) Procedures which may be utilized by qualified personnel are those procedures authorized by federal and state laws and regulations and performed in accordance with these laws and regulations and standards of the profession.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Section 56363(b)(7), Education Code.

§ 3051.8. Specialized Driver Training Instruction.

(a) Specialized driver training instruction may include instruction to an individual with exceptional needs to supplement the regular driver training program. The individualized education program team shall determine the need for supplementary specialized driver training instruction. The need to supplement the regular program shall be based on an assessment of the pupil's health, physical, and/or educational needs which require modifications which cannot be met through a regular driver training program.

(b) Driver training for individuals herein described must be provided by qualified teachers, as defined by Education Code Sections 41906 and 41907.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Sections 41305–41306, 41906–41907 and 56363(b)(8), Education Code.

§ 3051.9. Counseling and Guidance Services.

(a) Counseling and guidance services may be provided to an individual with exceptional needs who requires additional counseling and guidance services to supplement the regular guidance and counseling program. The individualized education program team shall determine the need for additional guidance and counseling services.

(b) Counseling and guidance services necessary to implement the individualized education program may include:

(1) Educational counseling in which the pupil is assisted in planning and implementing his or her immediate and long-range educational program.

(2) Career counseling in which the pupil is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions.

(3) Personal counseling in which the pupil is helped to develop his or her ability to function with social and personal responsibility.

(4) Counseling and consultation with parents and staff members on learning problems and guidance programs for pupils.

(c) The individual performing counseling services to pupils shall be qualified.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Sections 35300 and 56363(b)(11), Education Code; and 34 C.F.R. 300.13(b)(2), (b)(6), and (b)(8).

§ 3051.10. Psychological Services Other Than Assessment and Development of the Individualized Education Program.

Psychological services may include:

(a) Counseling provided to an individual with exceptional needs by a credentialed or licensed psychologist or other qualified personnel.

(b) Consultative services to parents, pupils, teachers, and other school personnel.

(c) Planning and implementing a program of psychological counseling for individuals with exceptional needs and parents.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Section 56363(b)(10), Education Code; and 34 C.F.R. 300.13 (b)(8).

§ 3051.11. Parent Counseling and Training.

Parent counseling and training may include:

(a) Assisting parents in understanding the special needs of their child, and

(b) Providing parents with information about child development.

NOTE: Authority cited: Education Code Section 56100(a) and (i); 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Section 56363(b)(11), Education Code; and 34 C.F.R. 300.13(b)(6).

§ 3051.12. Health and Nursing Services.

(a) Health and nursing services may include:

(1) Providing services by qualified personnel.

(2) Managing the individual's health problems on the school site.

(3) Consulting with pupils, parents, teachers, and other personnel.

(4) Group and individual counseling with parents and pupils regarding health problems.

(5) Maintaining communication with health agencies providing care to individuals.

(b) Specialized physical health care may be provided as described in Education Code Section 49423.5.

(1) Definitions.

(A) Specialized physical health care services means those health services prescribed by the child's licensed physician and surgeon requiring medically related training for the individual who performs the services and which are necessary during the school day to enable the child to attend school.

(B) Standardized procedures means protocols and procedures developed through collaboration among school or hospital administrators and health professionals, including licensed physicians and surgeons and nurses, to be utilized in the provision of the specialized physical health care services.

(C) Qualified means ability to demonstrate competence in Cardio-Pulmonary Resuscitation, current knowledge of community emergency medical resources, and skill in the use of equipment and performance of techniques necessary to provide specialized physical health care services for individuals with exceptional needs. In addition:

1. "Qualified" for the professional school or public health nurse or licensed physician and surgeon shall mean trained in the procedures to a level of competence and safety which meets the objectives of the training.

2. "Qualified" for the designated school personnel shall mean trained in the procedures to a level of competence and safety which meets the objectives of the training as provided by the school nurse, public health nurse, licensed physician and surgeon, or other programs which provide the training.

(D) Supervision means review, observation, and/or instruction of a designated school person's performance and of physical health care services, but does not necessarily require the immediate presence of the supervisor at all times.

1. Immediate supervision means that the supervisor shall be physically present while a procedure is being administered.

2. Direct supervision means that the supervisor shall be present in the same building as the person being supervised and available for consultation and/or assistance.

3. Indirect supervision means that the supervisor shall be available to the qualified designated school person either in person or through electronic means to provide necessary instruction, consultation, and referral to appropriate care and services as needed. Supervision of designated school persons shall include review on-site by a qualified school nurse, qualified public health nurse, or qualified licensed physician and surgeon. Supervision shall also include review of the competence of that individual in performing the specialized health care service, maintenance of appropriate records, physical environment, and equipment.

(E) Training means preparation in the appropriate delivery and skillful performance of specialized physical health care services. In addition:

1. Medically related training of credentialed school nurses or public health nurses shall be that training in an approved program which may be necessary to update or make current the nurse's professional skills and knowledge related to meeting pupils' needs for specialized physical health care services.

2. Medically related training of employed designated school personnel is that training in an approved program in standardized procedures provided by a qualified school nurse, qualified public health nurse, qualified licensed physician and surgeon, or other approved programs to enable the person to provide the specialized physical health care services necessary to enable the child to attend school.

(F) Competence in Cardio-Pulmonary Resuscitation means possession of a current valid certificate from an approved program.

(2) Standards and Staffing.

(A) Allocation of qualified designated school personnel shall be determined by the amount and type of supervision necessary to this regulation, and also the type and frequency of services needed by students in special classes and centers, and regular instructional settings.

(B) Approved training for qualified personnel shall be provided in one or more of the following ways:

1. By a qualified school nurse, qualified public health nurse, or qualified licensed physician and surgeon, as defined in these regulations.

2. By career and continuing education programs, approved by the appropriate licensing board.

3. By training programs through public or private medical institutions, i.e., hospitals, public health agencies, Visiting Nurses Associations, and Red Cross.

(3) Organization and Administration.

(A) Specific continuing specialized physical health care services required in order for the individual to benefit from special education will be included in the individualized education program. If the parent elects to perform the service during the school day, a waiver shall be signed relieving the school of the responsibility.

(B) Appropriate accommodations for safety and necessary physical care services for the individual with exceptional needs in the school setting shall be provided by the school. Personal privacy and dignity of an individual with exceptional needs shall be assured.

(C) The school district shall not be required to purchase medical equipment for an individual pupil. However, the school district, special education local plan area, or county office is responsible for providing other specialized equipment for use at school that is needed to implement the individualized education program.

(D) In accordance with Education Code Section 49423.5(a)(2), a qualified school nurse, qualified public health nurse, or qualified licensed physician and surgeon responsible for supervising the physical health care of an individual with exceptional needs in the school setting shall:

1. Coordinate the health care services to the individuals with exceptional needs on the school site.

2. Consult with appropriate personnel regarding management of health care services for individuals with exceptional needs.

3. Make appropriate referrals and maintain communication with health agencies providing care to individuals with exceptional needs.

4. Maintain or review licensed physician and surgeon and parent requests and daily documentation records.

(E) Written licensed physician and surgeon and parent requests, as well as the specific standardized procedures to be used if physical health care services are provided, shall be maintained for each individual with exceptional needs. Daily documentation of specific services which are provided shall be maintained on a district-approved form which shall include the signatures of the qualified designated school person(s) who performs the procedure.

1. Any pupil who is required to have specialized physical health care services during the school day, prescribed for him or her by a licensed physician and surgeon, may be assisted by a qualified school nurse, qualified public health nurse, or other qualified school personnel, if the school district receives:

a. A written statement from the licensed physician and surgeon stating the procedure and time schedules by which such procedures are to be given; and

b. A written statement from the parent or guardian of the pupil, indicating the desire that the school district assist the pupil in the matters set forth in the licensed physician and surgeon's statement, and granting consent for the delivery of such services.

2. This written statement of a licensed physician and surgeon and parent requests and daily documentation shall be maintained in accordance with the requirements of confidentiality of pupil records, and are considered mandatory interim pupil records.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections 49423.5 and 56363(b)(12), Education Code; and 34 CFR 300.13(b)(10).

HISTORY

1. Amendment of subsection (b)(3)(C) filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.13. Social Worker Services.

(a) Personnel providing social worker services shall be qualified.

(b) Social work services may include:

(1) Individual and group counseling with the individual and his or her immediate family.

(2) Consultation with pupils, parents, teachers, and other personnel regarding the effects of family and other social factors on the learning and developmental requirements of individual pupils with exceptional needs.

(3) Developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the pupil with exceptional needs, the family, and the various agencies providing social, income maintenance, employment development, mental health, or other developmental services.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. References: Section 56363(b)(13), Education Code; and 34 C.F.R. 300.13(b)(11).

§ 3051.14. Specially Designed Vocational Education and Career Development.

Specially designed vocational education and career development for individuals with exceptional needs regardless of severity of disability may include:

(a) Providing prevocational programs and assessing work-related skills, interests, aptitudes, and attitudes.

(b) Coordinating and modifying the regular vocational education program.

(c) Assisting individuals in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or sheltered environment, and to enable such individuals to become participating members of the community.

(d) Establishing work training programs within the school and community.

(e) Assisting in job placement.

(f) Instructing job trainers and employers as to the unique needs of the individuals.

(g) Maintaining regularly scheduled contact with all work stations and job-site trainers.

(h) Coordinating services with the Department of Rehabilitation and other agencies as designated in the individualized education program.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(14), Education Code; 34 CFR 300.14(b)(3).

§ 3051.15. Recreation Services.

Recreation services include but are not limited to:

(a) Therapeutic recreation services which are those specialized instructional programs designed to assist pupils in becoming as independent as possible in leisure activities, and when possible and appropriate, facilitate the pupil's integration into regular recreation programs.

(b) Recreation programs in schools and the community which are those programs that emphasize the use of leisure activity in the teaching of academic, social, and daily living skills; and, the provision of nonacademic and extracurricular leisure activities and the utilization of community recreation programs and facilities.

(c) Leisure education programs which are those specific programs designed to prepare the pupil for optimum independent participation in appropriate leisure activities, including teaching social skills necessary to engage in leisure activities, and developing awareness of personal and community leisure resources.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(b)(15), Education Code; and CFR 300.13(b)(9).

HISTORY

1. New section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).
2. Editorial correction of NOTE (Register 98, No. 33).

§ 3051.16. Specialized Services for Low-Incidence Disabilities.

(a) Specialized Services for low-incidence disabilities may include:

(1) Specially designed instruction related to the unique needs of pupils with low-incidence disabilities provided by teachers credentialed pursuant to Education Code section 44265.

(2) Specialized services related to the unique needs of pupils with low-incidence disabilities provided by qualified individuals such as interpreters, notetakers, readers, transcribers, and other individuals who provide specialized materials and equipment.

(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.

(1) By July 1, 2008, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall have achieved a score of 3.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 3.0 or above on the EIPA — Cued Speech.

(2) By July 1, 2008, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 3.5 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA — Cued Speech.

(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess

TECUnit certification, or have achieved a score of 4.0 or above on the EIPA — Cued Speech.

(c) An "educational interpreter" provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities, as designated in a student's Individualized Educational Program (IEP).

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363, Education Code; and Sections 300.34 and 300.156(b)(1), Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).
2. Editorial correction of first sentence (Register 98, No. 33).
3. Amendment of section and NOTE filed 7-29-2002; operative 8-28-2002 (Register 2002, No. 31).
4. Repealer and new subsection (b)(1), new subsections (b)(2)-(c) and amendment of NOTE filed 2-22-2008; operative 3-23-2008 (Register 2008, No. 8).

§ 3051.17. Services for Pupils with Chronic Illnesses or Acute Health Problems.

(a) Specialized services may be provided to pupils determined eligible pursuant to Section 3030(f). Such services include but are not limited to:

- (1) Individual consultation;
- (2) Home or hospital instruction; and
- (3) Other instructional methods using advanced communication technology.

(b) For pupils whose medical condition is in remission or in a passive state, the individualized education program team shall specify the frequency for monitoring the pupil's educational progress to assure that the illness does not interfere with the pupil's educational progress.

(c) When a pupil identified pursuant to Section 3030(f) experiences an acute health problem which results in his or her non-attendance at school for more than five consecutive days, upon notification of the classroom teacher or the parent, the school principal or designee shall assure that an individualized education program team is convened to determine the appropriate educational services.

(d) If there is a pattern of sporadic illness, the individualized education program team shall convene to consider alternative means for the pupil to demonstrate competencies in the required course of study so that the cumulative number of absences do not prevent educational progress.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363(a), Education Code; and 34 CFR 300.14(a)(1).

HISTORY

1. New section filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3051.18. Designated Instruction and Services for the Deaf and Hard of Hearing.

(a) Instruction and services for deaf and hard of hearing pupils shall be provided by an individual holding an appropriate Credential, who has competencies to provide services to the hearing impaired and who has training, experience and proficient communication skills for educating pupils with hearing impairments. Such services may include but need not to be limited to:

- (1) Speech, speech reading and auditory training.
- (2) Instruction in oral, sign, and written language development.
- (3) Rehabilitative and educational services for hearing impaired individuals to include monitoring amplification, coordinating information for the annual review, and recommending additional services.
- (4) Adapting curricula, methods, media, and the environment to facilitate the learning process.

(5) Consultation to pupils, parents, teachers, and other school personnel as necessary to maximize the pupil's experience in the regular education program.

(b) A specially trained instructional aide, working with and under the direct supervision of the credentialed teacher of the deaf and hard-of-hearing, may assist in the implementation of the pupil's educational program.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363 (b)(16), Education Code; and 34 CFR 300.13(a).

HISTORY

1. New section filed 3–21–88; operative 4–20–88 (Register 88, No. 15).

§ 3052. Designated Positive Behavioral Interventions.

(a) General Provisions.

(1) An IEP team shall facilitate and supervise all assessment, intervention, and evaluation activities related to a individual's behavioral intervention plan. When the behavioral intervention plan is being developed, the IEP team shall be expanded to include the behavioral intervention case manager with documented training in behavior analysis including positive behavioral intervention(s), qualified personnel knowledgeable of the student's health needs, and others as described in Education Code Section 56341(c)(2). The behavioral intervention case manager is not intended to be a new staff person and may be an existing staff member trained in behavior analysis with an emphasis on positive behavioral interventions.

(2) Behavioral intervention plans shall only be implemented by, or be under the supervision of, staff with documented training in behavior analysis, including the use of positive behavioral interventions. Such interventions shall only be used to replace specified maladaptive behavior(s) with alternative acceptable behavior(s) and shall never be used solely to eliminate maladaptive behavior(s).

(3) Behavioral intervention plans shall be based upon a functional analysis assessment, shall be specified in the individualized education program, and shall be used only in a systematic manner in accordance with the provisions of this section.

(4) Behavioral emergency interventions shall not be used as a substitute for behavioral intervention plans.

(5) The elimination of any maladaptive behavior does not require the use of intrusive behavioral interventions that cause pain or trauma.

(6) To the extent possible, behavioral intervention plans shall be developed and implemented in a consistent manner appropriate to each of the individual's life settings.

(b) Functional Analysis Assessments. A functional analysis assessment must be conducted by, or be under the supervision of a person who has documented training in behavior analysis with an emphasis on positive behavioral interventions. A functional analysis assessment shall occur after the individualized education program team finds that instructional/behavioral approaches specified in the student's IEP have been ineffective. Nothing in this section shall preclude a parent or legal guardian from requesting a functional analysis assessment pursuant to the provisions of Education Code sections 56320 et seq.

Functional analysis assessment personnel shall gather information from three sources: direct observation, interviews with significant others, and review of available data such as assessment reports prepared by other professionals and other individual records. Prior to conducting the assessment, parent notice and consent shall be given and obtained pursuant to Education Code Section 56321.

(1) A functional analysis assessment procedure shall include all of the following:

(A) Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;

(B) Systematic observation of the immediate antecedent events associated with each instance of the display of the targeted inappropriate behavior;

(C) Systematic observation and analysis of the consequences following the display of the behavior to determine the function the behavior serves for the individual, i.e., to identify the specific environmental or physiological outcomes produced by the behavior. The communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;

(D) Ecological analysis of the settings in which the behavior occurs most frequently. Factors to consider should include the physical setting, the social setting, the activities and the nature of instruction, scheduling, the quality of communication between the individual and staff and other students, the degree of independence, the degree of participation, the

amount and quality of social interaction, the degree of choice, and the variety of activities;

(E) Review of records for health and medical factors which may influence behaviors (e.g. medication levels, sleep cycles, health, diet); and

(F) Review of the history of the behavior to include the effectiveness of previously used behavioral interventions.

(2) Functional Analysis Assessment Reports. Following the assessment, a written report of the assessment results shall be prepared and a copy shall be provided to the parent. The report shall include all of the following:

(A) A description of the nature and severity of the targeted behavior(s) in objective and measurable terms;

(B) A description of the targeted behavior(s) that includes baseline data and an analysis of the antecedents and consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;

(C) A description of the rate of alternative behaviors, their antecedents and consequences; and

(D) Recommendations for consideration by the IEP team which may include a proposed plan as specified in Section 3001(f).

(c) IEP Team Meeting. Upon completion of the functional analysis assessment, an IEP team meeting shall be held to review results and, if necessary, to develop a behavioral intervention plan, as defined in Article 1, Section 3001(f) of these regulations. The IEP team shall include the behavioral intervention case manager. The behavioral intervention plan shall become a part of the IEP and shall be written with sufficient detail so as to direct the implementation of the plan.

(d) Intervention. Based upon the results of the functional analysis assessment, positive programming for behavioral intervention may include the following:

(1) Altering the identified antecedent event to prevent the occurrence of the behavior (e.g., providing choice, changing the setting, offering variety and a meaningful curriculum, removing environmental pollutants such as excessive noise or crowding, establishing a predictable routine for the individual);

(2) Teaching the individual alternative behaviors that produce the same consequences as the inappropriate behavior (e.g., teaching the individual to make requests or protests using socially acceptable behaviors, teaching the individual to participate with alternative communication modes as a substitute for socially unacceptable attention-getting behaviors, providing the individual with activities that are physically stimulating as alternatives for stereotypic, self-stimulatory behaviors);

(3) Teaching the individual adaptive behaviors (e.g., choice-making, self-management, relaxation techniques, and general skill development) which ameliorate negative conditions that promote the display of inappropriate behaviors; and

(4) Manipulating the consequences for the display of targeted inappropriate behaviors and alternative, acceptable behaviors so that it is the alternative behaviors that more effectively produce desired outcomes (i.e., positively reinforcing alternative and other acceptable behaviors and ignoring or redirecting unacceptable behaviors).

(e) Acceptable Responses. When the targeted behavior(s) occurs, positive response options shall include, but are not limited to one or more of the following:

(1) the behavior is ignored, but not the individual;

(2) the individual is verbally or verbally and physically redirected to an activity;

(3) the individual is provided with feedback (e.g., "You are talking too loudly");

(4) the message of the behavior is acknowledged (e.g., "You are having a hard time with your work"); or

(5) a brief, physical prompt is provided to interrupt or prevent aggression, self-abuse, or property destruction.

(f) Evaluation of the Behavioral Intervention Plan Effectiveness. Evaluation of the effectiveness of the behavioral intervention plan shall be determined through the following procedures:

(1) Baseline measure of the frequency, duration, and intensity of the targeted behavior, taken during the functional analysis assessment. Baseline data shall be taken across activities, settings, people, and times of the day. The baseline data shall be used as a standard against which to evaluate intervention effectiveness;

(2) Measures of the frequency, duration, and intensity of the targeted behavior shall be taken after the behavioral intervention plan is implemented at scheduled intervals determined by the IEP team. These measures shall also be taken across activities, settings, people, and times of the day, and may record the data in terms of time spent acting appropriately rather than time spent engaging in the inappropriate behavior;

(3) Documentation of program implementation as specified in the behavioral intervention plan (e.g., written instructional programs and data, descriptions of environmental changes); and

(4) Measures of program effectiveness will be reviewed by the teacher, the behavioral intervention case manager, parent or care provider, and others as appropriate at scheduled intervals determined by the IEP team. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team.

(5) If the IEP team determines that changes are necessary to increase program effectiveness, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, shall propose changes to the behavioral intervention plan.

(g) Modifications without IEP Team Meeting. Minor modifications to the behavioral intervention plan can be made by the behavioral intervention case manager and the parent or parent representative. If the case manager is unavailable, a qualified designee who meets the training requirements of subsection (a)(1) shall participate in such modifications. Each modification or change shall be addressed in the behavioral intervention plan provided that the parent, or parent representative, is notified of the need and is able to review the existing program evaluation data prior to implementing the modification or change. Parents shall be informed of their right to question any modification to the plan through the IEP procedures.

(h) Contingency Behavioral Intervention Plans. Nothing in this section is intended to preclude the IEP team from initially developing the behavioral intervention plan in sufficient detail to include schedules for altering specified procedures, or the frequency or duration of the procedures, without the necessity for reconvening the IEP team. Where the intervention is to be used in multiple settings, such as the classroom, home and job sites, those personnel responsible for implementation in the other sites must also be notified and consulted prior to the change.

(i) Emergency Interventions. Emergency interventions may only be used to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual or others and which cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

(1) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(2) Whenever a behavioral emergency occurs, only behavioral emergency interventions approved by the special education local planning area (SELPA) may be used.

(3) No emergency intervention shall be employed for longer than is necessary to contain the behavior. Any situation which requires prolonged use of an emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation.

(4) Emergency interventions may not include:

(A) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;

(B) Employment of a device or material or objects which simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in such procedures; and

(C) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(5) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent and residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A "Behavioral Emergency Report" shall immediately be completed and maintained in the individual's file. The report shall include all of the following:

(A) The name and age of the individual;

(B) The setting and location of the incident;

(C) The name of the staff or other persons involved;

(D) A description of the incident and the emergency intervention used, and whether the individual is currently engaged in any systematic behavioral intervention plan; and

(E) Details of any injuries sustained by the individual or others, including staff, as a result of the incident.

(6) All "Behavioral Emergency Reports" shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(7) Anytime a "Behavioral Emergency Report" is written regarding an individual who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an IEP team meeting to review the emergency report, to determine the necessity for a functional analysis assessment, and to determine the necessity for an interim behavioral intervention plan. The IEP team shall document the reasons for not conducting an assessment and/or not developing an interim plan.

(8) Anytime a "Behavioral Emergency Report" is written regarding an individual who has a behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective should be referred to the IEP team to review and determine if the incident constitutes a need to modify the plan.

(9) "Behavioral Emergency Report" data shall be collected by SELPAs which shall report annually the number of Behavioral Emergency Reports to the California Department of Education and the Advisory Committee on Special Education.

(j) SELPA Plan. The local plan of each SELPA shall include procedures governing the systematic use of behavioral interventions and emergency interventions. These procedures shall be part of the SELPA local plan.

(1) Upon adoption, these procedures shall be available to all staff members and parents whenever a behavioral intervention plan is proposed.

(2) At a minimum, the plan shall include:

(A) The qualifications and training of personnel to be designated as behavioral intervention case managers, which shall include training in behavior analysis with an emphasis on positive behavioral interventions, who will coordinate and assist in conducting the functional analysis assessments and the development of the behavioral intervention plans;

(B) The qualifications and training required of personnel who will participate in the implementation of the behavioral intervention plans; which shall include training in positive behavioral interventions;

(C) Special training that will be required for the use of emergency behavioral interventions and the types of interventions requiring such training; and

(D) Approved behavioral emergency procedures.

(k) Nonpublic School Policy. Nonpublic schools and agencies, serving individuals pursuant to Education Code Section 56365 et seq., shall develop policies consistent with those specified in subsection (i) of this section.

(l) Prohibitions. No public education agency, or nonpublic school or agency serving individuals pursuant to Education Code Section 56365 et seq., may authorize, order, consent to, or pay for any of the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain;

(2) Releasing noxious, toxic or otherwise unpleasant sprays, mists, or substances in proximity to the individual's face;

(3) Any intervention which denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;

(4) Any intervention which is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule or humiliation, or which can be expected to cause excessive emotional trauma;

(5) Restrictive interventions which employ a device or material or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention pursuant to subsection (i);

(6) Locked seclusion, except pursuant to subsection (i)(4)(A);

(7) Any intervention that precludes adequate supervision of the individual; and

(8) Any intervention which deprives the individual of one or more of his or her senses.

(m) Due Process Hearings. The provisions of this chapter related to functional analysis assessments and the development and implementation of behavioral intervention plans are subject to the due process hearing procedures specified in Education Code Section 56501 et seq. No hearing officer may order the implementation of a behavioral intervention that is otherwise prohibited by this section, by SELPA policy, or by any other applicable statute or regulation.

NOTE: Authority cited: Section 56523(a), Education Code. Reference: Sections 56520 and 56523, Education Code.

HISTORY

1. New section filed 4-20-93; operative 5-20-93 (Register 93, No. 17).
2. Amendment of subsections (b), (b)(2)(D), (c), (i), (i)(5) and (i)(7) filed 2-23-96 as an emergency; operative 2-23-96 (Register 96, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-22-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 2-23-96 order including further amendment of subsection (b) transmitted to OAL 6-21-96 and filed 8-5-96 (Register 96, No. 32).

§ 3053. Special Classes.

(a) Placement in a special day class shall not limit or restrict the consideration of other options, including services provided in a vocational education program or any combination of programs and placements as may be required to provide the services specified in a pupil's individualized education program.

(b) The following standards for special classes shall be met:

(1) A special class shall be composed of individuals whose needs as specified in the individualized education programs can be appropriately met within the class.

(2) Pupils in a special class shall be provided with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group:

(A) When an individual can benefit by attending a regular program for part of the day, the amount of time shall be written in the individualized education program.

(B) When the individualized education program team determines that an individual cannot function for the period of time of a regular school day, and when it is so specified in the individualized education program, an individual may be permitted to attend a special class for less time than the regular school day for that chronological peer group.

(3) The procedure for allocation of aides for special classes shall be specified in the local plan. Additional aide time may be provided when the severity of the handicapping conditions of the pupils or the age of the pupils justifies it, based on the individualized education programs.

(4) Special class(es) shall be located to promote maximum appropriate interaction with regular educational programs.

(c) The special class shall be taught by a full-time-equivalent teacher whose responsibility is the instruction, supervision, and coordination of the educational program for those individuals enrolled in the special class.

The special class shall be taught by a teacher who holds an appropriate special education credential authorized by the Commission on Teacher

Credentialing and who possesses the necessary competencies to teach individuals assigned to the class. Special class teachers with a Special Education Credential employed as of September 1, 1975, as teachers in special classes for pupils in severe language disorder aphasia programs and who possess the necessary competencies to teach individuals assigned to the class, shall be authorized to continue to teach.

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections 56001 and 56364, Education Code; and 34 CFR 300.550-554.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

§ 3054. Special Center.

(a) Standards. Special centers operating under this section shall:

(1) Provide pupils in a special center with an educational program in accordance with their individualized education programs for at least the same length of time as the regular school day for that chronological peer group:

(A) When an individual can benefit by attending a regular class(es) or other program part of the day, the amount of time shall be written in the individualized education program.

(B) When the individualized education program team determines that an individual cannot function for the period of time of a regular school day, and when it is so specified in the individualized education program, an individual may be permitted to attend a special center for less time than the regular school day for that chronological peer group.

(2) Be staffed by qualified personnel at a pupil/adult ratio to enable implementation of the pupils' individualized education programs.

(3) Provide an emergency communication system for the health and safety of individuals with exceptional needs, such as fire, earthquake, and smog alerts.

(4) Have specialized equipment and facilities to meet the needs of individuals served in the special centers.

(b) Special centers should be located to promote maximum, appropriate interaction with regular educational programs.

NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. References: Sections 56001 and 56364, Education Code; and 34 C.F.R. 300.550-554.

Article 6. Nonpublic, Nonsectarian School and Agency Services

§ 3060. Application for Certification.

(a) Any school, person or agency desiring to obtain certification as a nonpublic school or nonpublic agency shall file an application with the Superintendent on forms developed and provided by the Department.

(b) Applications to be certified as a nonpublic school or a nonpublic agency shall be filed at the time allowed by Education Code section 56366.1(b) and (h).

(c) Each nonpublic school or nonpublic agency application shall include information pursuant to Education Code section 56366.1(a) and:

(1) the name and address of the nonpublic school or nonpublic agency;

(2) the name of the administrator and contact person;

(3) the telephone and FAX numbers;

(4) for nonpublic schools, the name of the teacher(s) with a credential authorizing service in special education;

(5) the types of disabling conditions served;

(6) the age, gender and grade levels served;

(7) the total capacity of the program;

(8) a brief description of the program;

(9) per hour, per day or monthly fees for services provided;

(10) written directions and a street map describing the location of the nonpublic school from the major freeways, roads, streets, thoroughfares and closest major airport;

(11) tuberculosis expiration dates for all staff;

(12) criminal record summary or criminal history clearance dates for all staff who may have contact with pupils;

(13) a list of school districts, county offices of education and special education local plan areas for whom the applicant has a contract to provide school and/or related services;

(14) for out-of-state applicants, a copy of the current certification or license by the state education agency to provide education services to individuals with exceptional needs under the Individuals with Disabilities Education Act;

(15) for in-state private schools currently providing educational services to six (6) or more students, a copy of the Private School Affidavit which has been filed with their county superintendent of schools;

(16) a copy of the current school year calendar; and

(17) a fire inspection clearance completed within the past twelve months.

(d) In addition to the requirements set forth section 3060.2, each nonpublic school with a residential component shall include, as part of the application for certification:

(1) the name of the residential program attached to the nonpublic school;

(2) a copy of the current residential care license;

(3) the proprietary status of the residential program;

(4) a list of all residential facilities affiliated with the nonpublic school;

(5) the total capacity of all the residential facilities affiliated with the nonpublic school;

(6) the per day or monthly fee for the residential component; and

(7) the rate of care level for each residential facility affiliated with the nonpublic school.

(e) The applicant shall file affidavits, assurances and clearances that verify compliance with:

(1) Fair Employment Act;

(2) Drug Free Workplace Act of 1988;

(3) Section 504 of the Rehabilitation Act of 1973;

(4) Individuals with Disabilities Education Act;

(5) Civil Rights Act of 1964, as amended;

(6) Education Code Section 33190 (Private School Affidavit);

(7) Nonsectarian status;

(8) OSHA Bloodborne Pathogens Standards;

(9) all local, county, or state ordinances and/or statutes relating to fire, health, sanitation, and building safety;

(10) use permit, conditional permit or zoning; and

(11) other assurances as required by state or federal law set forth in the Assurance Statement in the nonpublic school or nonpublic agency application for certification.

(f) The applicant shall submit, with the application, a fee in accordance with Education Code Section 56366.1(k).

(g) No fee shall be refunded to the applicant if the application is withdrawn or if the Superintendent denies the application.

(h) Applicants shall submit a separate application for each nonpublic school or nonpublic agency site.

(i) A nonpublic school or agency shall be certified for a period of two years, terminating on December 31 of the second year. An annual renewal application shall be required. The renewal application shall require the nonpublic school or agency to update information that has changed since the submission of its previous application including, but not limited to, a copy of the current school year calendar and if the nonpublic school has a residential component, a copy of the current residential care license.

(j) To allow transition of separate cycles between nonpublic schools and nonpublic agencies, beginning January 2000, nonpublic schools shall receive a one-time three-year certification that requires annual updates. Beginning January 2000, nonpublic agencies shall begin a two-year period of certification that requires annual updates. When nonpublic school certifications expire on December 31, 2003, the two-year period of certification shall become effective thereafter.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Section 56366.1, Education Code.

HISTORY

1. New section filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day.
2. New section refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 16).
4. New section filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.
5. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
6. New section filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
7. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 52).
8. New section filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3-25-99 order, including repealer and new section, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

§ 3061. Service Fees, Finance and Maintenance of Records.

All certified nonpublic schools and agencies shall:

(a) provide the Superintendent with specified cost data, pursuant to Education Code Section 56366.7 for providing education and designated instruction and services to individuals with exceptional needs;

(b) maintain cost data in sufficient detail to verify the annual operating budget in providing education and designated instruction and services to individuals with disabilities. Fiscal records shall be maintained for a minimum of five years from the date of origination or until audit findings have been resolved, which is longer;

(c) make available any books and records associated with the delivery of education and designated instruction and services to individuals with exceptional needs for audit inspection or reproduction by the Superintendent or the Superintendent's authorized representatives. These records shall include those management records associated with the delivery of education and designated instruction and services, costs of providing services and personnel records necessary to ensure that staff qualifications comply with the requirements contained in Article 6 of these regulations; and

(d) not charge parents for services covered in the master contract with the public education agency.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Section 56366.7, Education Code.

HISTORY

1. New section filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day. For prior history, see Register 95, No. 49.
2. New section refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 16).
4. New section filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.

5. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
6. New section filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
7. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 52).
8. New section filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3-25-99 order, including repealer and new section, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).
2. New section refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 16).
4. New section filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.
5. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
6. New section filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
7. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 52).
8. New section filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.
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10. Certificate of Compliance as to 3-25-99 order, including repealer and new section, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

§ 3062. Contracts and Agreements.

(a) A master contract shall be used by a local education agency for entering into formal agreements with certified nonpublic schools or nonpublic agencies. The term of the contract shall not exceed one year. The contract shall specify the administrative and financial agreements between the local education agency and the nonpublic school or nonpublic agency.

(b) No master contract with the local education agency shall be contingent upon nonpublic school or nonpublic agency individual contracts or agreements with parents.

(c) The master contract shall, at a minimum, include:

(1) general provisions relating to modifications and amendments, notices, waivers, disputes, contractor's status, conflicts of interest, termination, inspection and audits, compliance with applicable state and federal laws and regulations, attendance, record-keeping, and reporting requirements;

(2) payment schedules to include, but not limited to payment amounts, payment demand, right to withhold and audit exceptions;

(3) indemnification and reasonable insurance requirements; and

(4) procedures and responsibilities for attendance and unexcused absences.

(d) All master contracts shall be re-negotiated prior to June 30.

(e) Services may be provided through dual enrollment in public and nonpublic school or nonpublic agency programs to meet the educational requirements specified in the individualized education program. The master contract or individual service agreement shall specify the provider of each service. The individual with exceptional needs shall be formally enrolled in both nonpublic and public school programs. The nonpublic school or nonpublic agency shall be reimbursed by the local education agency for services as agreed upon in the contract.

(f) Substitute teachers shall be used consistent with the provisions of Education Code Section 56061.

(g) Nonpublic schools and nonpublic agencies shall provide contracting local education agencies with copies of current valid California credentials and licenses for staff providing services to individuals with exceptional needs.

(h) Nonpublic schools and agencies shall notify the Superintendent and contracting local education agencies in writing within forty-five (45) days of any credential or licensed personnel changes. Failure to provide properly qualified personnel to provide services as specified in the individualized education program shall be cause for the termination of all contracts between the local education agency and the nonpublic school or nonpublic agency.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Sections 56366 and 56366.1, Education Code.

HISTORY

1. New section filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day. For prior history, see Register 95, No. 49.

§ 3063. Program Reviews.

(a) The Superintendent shall conduct a validation review of the nonpublic school prior to an initial conditional certification. An on-site review shall be conducted within 90 days of the initial conditional certification and student enrollment. On-site reviews shall be scheduled at least once every four years thereafter.

(b) The nonpublic school, the contracting education agency and the special education local plan area shall be given a minimum of thirty (30) days prior notice before an on-site review.

(c) The person serving as the lead of the review team shall confer with the school administrator at least 48 hours prior to the on-site review to discuss the procedures and the number of days required for the review. The lead of the review team shall identify those persons who are to participate in the on-site review.

(d) Nonpublic schools and nonpublic agencies may be visited at any time without prior notice when there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child or group of children. The Superintendent shall document the concern and submit it to the nonpublic school or nonpublic agency at the time of the on-site monitoring.

(e) On-site reviews shall include the following procedures:

(1) an entrance meeting to acquaint the on-site review team with the nonpublic school or nonpublic agency staff and site to discuss the purpose and objectives of the review;

(2) a review and examination of files and documents, classroom observations and interviews with the site administrator, teachers, students, volunteers and parents to determine compliance with all applicable state and federal laws and regulations; and

(3) an exit meeting to provide the nonpublic school or nonpublic agency with a preliminary preview of the on-site review findings, verify compliance and offer technical assistance including how to resolve issues of noncompliance.

(f) The Superintendent shall provide the nonpublic school or nonpublic agency, the contracting educational agency and the special education local plan area with a written report within 60 days of the on-site review.

(g) The Superintendent shall request a written response, within a timeframe to be determined by the Superintendent, but in no case to exceed 180 days, to any noncompliance finding that resulted from the on-site review.

(h) The Superintendent shall provide a written notification, within 30 days of receipt, to the nonpublic school or nonpublic agency regarding their response to each noncompliance finding.

(i) On-site reviews shall be conducted only by personnel who have been trained by Department staff to perform such administrative and program examinations.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Sections 56366.1 and 56366.8, Education Code.

HISTORY

1. New section filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97 or emergency amendments will be repealed by operation of law on the following day. For prior history, see Register 95, No. 49.
2. New section refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 16).
4. New section filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.
5. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
6. New section filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
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9. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3-25-99 order, including repealer and new section, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

§ 3064. Staff Qualifications — Special Education Instruction.

(a) The nonpublic school or nonpublic agency shall deliver instruction utilizing personnel who possess a credential authorizing the holder to deliver special education instruction according to the age range and disabling conditions of individuals with exceptional needs enrolled in the nonpublic school.

(b) Instruction shall be directed and delivered pursuant to the master contract and the individual service agreement.

(c) To provide special education instruction for individuals with exceptional needs younger than three years of age, as described in Education Code, Part 30, Chapter 4.4, the nonpublic school shall comply with the provisions of Education Code Section 56425 et seq., and Education Code Section 56426.2(e) regarding adult to child ratios.

(d) To provide special education instruction for individuals with exceptional needs between the ages of three and five years, inclusive, as described in Education Code, Part 30, Chapter 4.45, the nonpublic school shall comply with the provisions of Education Code Section 56440 et seq., and Education Code Section 56441.5 regarding appropriate instructional adult to child ratios.

(e) Nonpublic schools and nonpublic agencies shall comply with the personnel standards and qualifications pursuant to Education Code Section 45340 et seq., and Education Code Section 45350 et seq., regarding instructional aids and teacher assistants, respectively.

(f) Nonpublic schools and nonpublic agencies shall comply with all of the laws and regulations governing the licensed professions, in particular the provisions with respect to supervision. Nonpublic schools and nonpublic agencies may use assistants to the extent authorized by state and federal law.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Sections 45340, 45350, 56366.1 and 56425, Education Code.

HISTORY

1. New section filed 7-18-97 as an emergency; operative 7-18-97 (Register 97, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-17-97

or emergency amendments will be repealed by operation of law on the following day. For prior history, see Register 95, No. 49.

2. New section refiled 11-14-97 as an emergency; operative 11-14-97 (Register 97, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-16-98 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 16).
4. New section filed 4-16-98 as an emergency; operative 4-16-98 (Register 98, No. 16). A Certificate of Compliance must be transmitted to OAL by 8-14-98 or emergency language will be repealed by operation of law on the following day.
5. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
6. New section filed 8-19-98 as an emergency; operative 8-19-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-17-98 or emergency language will be repealed by operation of law on the following day.
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8. New section filed 12-21-98 as an emergency; operative 12-21-98 (Register 98, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-20-99 or emergency language will be repealed by operation of law on the following day.
9. Repealer and new section filed 3-25-99 as an emergency; operative 3-25-99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-99 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3-25-99 order, including repealer and new section, transmitted to OAL 7-23-99 and filed 9-1-99 (Register 99, No. 36).

§ 3065. Staff Qualifications — Related Services including Designated Instruction and Services.

To be eligible for certification to provide designated instruction and services for individuals with exceptional needs, nonpublic schools and agencies shall meet the following requirements:

(a)(1) "Adapted physical education" means:

(A) a modified general physical education program, or a specially designed physical education program in a special class; or

(B) consultative services provided to pupils, parents, teachers, or other school personnel for the purpose of identifying supplementary aids and services or modifications necessary for successful participation in the general physical education program or specially designed physical education programs.

(2) Adapted physical education shall be provided only by personnel who possess a credential that authorizes service in adapted physical education.

(b)(1) "Assistive technology service" means any service that directly assists an individual with exceptional needs in the selection or use of an assistive technology device that is educationally necessary. The term includes the evaluation of the needs of an individual with exceptional needs including a functional evaluation of the individual in the individual's customary environment; coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education programs and rehabilitation plans and programs; training or technical assistance for an individual with exceptional needs or, where appropriate, the family of an individual with exceptional needs or, if appropriate, that individual's family; and training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with exceptional needs.

(2) Assistive technology services shall be provided only by personnel who possess a:

(A) license in Physical Therapy issued by a licensing agency within the Department of Consumer Affairs, where the utilization of assistive technology services falls within the scope of practice of physical therapy as defined in Business and Professions Code section 2620 and implementing regulations; or

(B) certificate of registration as an Occupational Therapist pursuant to Business and Professions Code section 2570 et seq., where the utilization of assistive technology services falls within the scope of practice of occupational therapy; or

(C) license in Speech–Language Pathology issued by a licensing agency within the Department of Consumer Affairs or a valid document, issued by the Commission on Teacher Credentialing, where the function of the assistive technology service is augmentative communication; or

(D) baccalaureate degree in engineering with emphasis in assistive technology; or

(E) baccalaureate degree in a related field of engineering with a graduate certificate in rehabilitation technology or assistive technology; or

(F) certification from the Rehabilitation Engineering and Assistive Technology Society of North America and Assistive Technology Provider (RESNA/ATP); or

(G) a certificate in assistive technology applications issued by a regionally accredited post–secondary institution; or

(H) a credential that authorizes special education of physically handicapped, orthopedically handicapped, or severely handicapped pupils.

(c)(1) “Audiological services” means aural rehabilitation (auditory training, speech reading, language habilitation, and speech conservation) and habilitation with individual pupils in the general classroom; monitoring hearing levels, auditory behavior, and amplification for all pupils requiring personal or group amplification in the instructional setting; planning, organizing, and implementing an audiology program for individuals with auditory dysfunctions, as specified in the individualized education program; or consultative services regarding test finding, amplification needs and equipment, otological referrals, home training programs, acoustic treatment of rooms, and coordination of educational services to hearing-impaired individuals.

(2) Audiological services shall be provided only by personnel who possess:

(A) a license in Audiology issued by a licensing agency within the Department of Consumer Affairs; or

(B) a credential authorizing audiology services.

(d) Behavior intervention shall be designed or planned only by personnel who have:

(1) pupil personnel services credential that authorizes school counseling or school psychology; or

(2) credential authorizing the holder to deliver special education instruction; or

(3) license as a Marriage, Family, and Child Counselor issued by a licensing agency within the Department of Consumer Affairs; or

(4) license as a Clinical Social Worker issued by a licensing agency within the Department of Consumer Affairs; or

(5) license as an Educational Psychologist issued by a licensing agency within the Department of Consumer Affairs; or

(6) license as a Psychologist issued by a licensing agency within the Department of Consumer Affairs; or

(7) master’s degree issued by a regionally accredited post–secondary institution in education, psychology, counseling, behavior analysis, behavior science, human development, social work, rehabilitation, or in a related field.

(e) To be eligible for certification to provide behavior intervention, including implementation of behavior modification plans, but not including development or modification of behavior intervention plans, a non-public school or agency shall deliver those services utilizing personnel who:

(1) possess the qualifications under subdivision (d); or

(2)(A) are under the supervision of personnel qualified under subdivision (d);

(B) possess a high school diploma or its equivalent; and

(C) receive the specific level of supervision required in the pupil’s IEP.

(f)(1) “Counseling and guidance” means educational counseling in which the pupil is assisted in planning and implementing his or her immediate and long-range educational program; career counseling in which the pupil is assisted in assessing his or her aptitudes, abilities, and interests in order to make realistic career decisions; personal counseling in which the pupil is helped to develop his or her ability to function with

social and personal responsibility; or counseling with parents and staff members on learning problems and guidance programs for pupils.

(2) Counseling and guidance shall be provided only by personnel who possess a:

(A) license as a Marriage, Family, and Child Counselor issued by a licensing agency within the Department of Consumer Affairs; or

(B) license in Clinical Social Work issued by a licensing agency within the Department of Consumer Affairs; or

(C) license as an Educational Psychologist issued by a licensing agency within the Department of Consumer Affairs; or

(D) license as a Psychologist issued by a licensing agency within the Department of Consumer Affairs; or

(E) pupil personnel services credential, which authorizes school counseling or school psychology.

(g)(1) “Early education programs for children with disabilities” means the program and services specified by Education Code Part 30 Section 56425 et seq.

(2) Early education programs for children with disabilities shall be provided only by personnel who meet the appropriate personnel qualifications set forth in this Article and comply with all other requirements of Education Code Chapter 4.4 commencing with Section 56425.

(h) An “educational interpreter” provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities, as designated in a student’s IEP.

(1) Interpreters for deaf and hard of hearing pupils shall meet the following qualification standards:

(A) By July 1, 2008, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall have achieved a score of 3.0 or above on the EIPA, the ESSE–I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.0 or above on the EIPA — Cued Speech.

(B) By July 1, 2008, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall have achieved a score of 3.5 or above on the EIPA, the ESSE–I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA — Cued Speech.

(C) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall have achieved a score of 4.0 or above on the EIPA, the ESSE–I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA — Cued Speech;

(i)(1) “Health and nursing services” means:

(A) managing the child’s health problems on the school site;

(B) consulting with pupils, parents, teachers, and other personnel;

(C) group and individual counseling with parents and pupils regarding health problems;

(D) maintaining communication with health agencies providing care to individuals with disabilities; or

(E) providing services by qualified personnel.

(2) Health and nursing services shall be provided only by personnel who possess:

(A) a license as a Registered Nurse, issued by a licensing agency within the Department of Consumer Affairs; or

(B) a license as a Vocational Nurse, issued by a licensing agency within the Department of Consumer Affairs, under the supervision of a licensed registered nurse; or

(C) a school nurse credential; or

(D) demonstrated competence in cardio–pulmonary resuscitation, current knowledge of community emergency medical resources, and

skill in the use of equipment and performance of techniques necessary to provide specialized physical health care services for individuals with exceptional needs. In addition, possession of training in these procedures to a level of competence and safety that meet the objectives of the training as provided by the school nurse, public health nurse, licensed physician and surgeon, or other training programs. "Demonstrated competence in cardio-pulmonary resuscitation" means possession of a current valid certificate from an approved program; or

(E) a valid license, certificate, or registration appropriate to the health service to be designated, issued by the California agency authorized by law to license, certificate, or register persons to practice health service in California.

(j)(1) "Home and hospital services" means instruction delivered to children with disabilities, individually, in small groups, or by teleclass, whose medical condition such as those related to surgery, accidents, short-term illness or medical treatment for a chronic illness prevents the individual from attending school.

(2) Home or hospital instruction shall be provided only by personnel who possess a valid teaching credential.

(k)(1) "Language and speech development and remediation" means screening, assessment, individualized education program development and direct speech and language services delivered to children with disabilities who demonstrate difficulty understanding or using spoken language to such an extent that it adversely affects their educational performance and cannot be corrected without special education and related services.

(2) Language and speech development and remediation shall be provided only by personnel who possess:

(A) a license in Speech-Language Pathology issued by a licensing agency within the Department of Consumer Affairs; or

(B) a credential authorizing language or speech services.

(l)(1) "Occupational therapy" means the use of various treatment modalities including self-help skills, language and educational techniques as well as sensory motor integration, physical restoration methods, and prevocation exploration to facilitate physical and psychosocial growth and development.

(2) Occupational therapy shall be provided only by personnel who have certification in good standing with the National Board for Certification in Occupational Therapy, Inc. as a registered occupational therapist (OTR) or certified occupational therapy assistant (COTA). Services provided by a COTA shall be supervised by an OTR in accordance with professional standards outlined by the American Occupational Therapy Association.

(m)(1) "Orientation and mobility instruction" means specialized instruction for individuals in orientation and mobility techniques or consultative services to other educators and parents regarding instructional planning and implementation of the individualized education program relative to the development of orientation and mobility skills and independent living skills.

(2) Orientation and mobility instruction shall be provided only by personnel who possess a credential that authorizes services in orientation and mobility instruction.

(n)(1) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.

(2) Parent counseling and training shall be provided only by personnel who possess a:

(A) credential that authorizes special education instruction; or

(B) credential that authorizes health and nursing services; or

(C) license as a Marriage, Family, and Child Counselor, issued by a licensing agency within the Department of Consumer Affairs; or

(D) license as a Clinical Social Worker, issued by a licensing agency within the Department of Consumer Affairs; or

(E) license as an Educational Psychologist, issued by a licensing agency within the Department of Consumer Affairs; or

(F) license as a Psychologist, issued by a licensing agency within the Department of Consumer Affairs; or

(G) pupil personnel services credential that authorizes school counseling or school psychology or school social work.

(o)(1) "Physical therapy" means the:

(A) administration of active, passive, and resistive therapeutic exercises and local or general massage, muscle training and corrective exercises and coordination work;

(B) administration of hydrotherapy treatments;

(C) assistance in administering various types of electrotherapy including ultraviolet, infrared, diathermy and inductothermy;

(D) teaching of parents of hospitalized pupils exercises which are to be continued at home and interpret to them the significance of physical therapy services; and

(E) instruction in walking, standing, balance, use of crutches, cane, or walker and in the care of braces and artificial limbs.

(2) Physical therapy shall be provided only by personnel who possess a valid license in Physical Therapy issued by a licensing agency within the Department of Consumer Affairs.

(p)(1) "Psychological services" means:

(A) psychological counseling provided to children with disabilities;

(B) consultative services to parents, pupils, teachers, and other school personnel; or

(C) planning and implementing a program of psychological counseling for children with disabilities and parent by a credentialed or licensed psychologist or other qualified personnel.

(D) This term does not include assessment services and the development of an individualized education program.

(2) Psychological services, other than assessment and development of the individualized education program, shall be provided only by personnel who possess a:

(A) license as a Marriage, Family, and Child Counselor, issued by a licensing agency within the Department of Consumer Affairs; or

(B) license as a Clinical Social Worker, issued by a licensing agency within the Department of Consumer Affairs; or

(C) license as an Educational Psychologist, issued by a licensing agency within the Department of Consumer Affairs; or

(D) license in Psychology, issued by a licensing agency within the Department of Consumer Affairs; or

(E) pupil personnel services credential that authorizes school psychology.

(q)(1) "Recreation services" means:

(A) therapeutic recreation and specialized instructional programs designed to assist pupils to become as independent as possible in leisure activities, and when possible and appropriate, facilitate the pupil's integration into general recreation programs;

(B) recreation programs in schools and the community which are those programs that emphasize the use of leisure activity in the teaching of academic, social, and daily living skills and the provision of nonacademic and extracurricular leisure activities and the utilization of community recreation programs and facilities; or

(C) leisure education programs which are those specific programs designed to prepare the pupil for optimum independent participation in appropriate leisure activities, and developing awareness of personal and community leisure resources.

(2) Recreation services shall be provided only by personnel who possess a:

(A) certificate, issued by the California Board of Recreation and Park Certification; or

(B) certificate issued by the National Council for Therapeutic Recreation; or

(C) the National Recreation and Park Association, authorizing services in recreation or therapeutic recreation.

(r)(1) "Social worker services" means:

(A) individual and group counseling with the individual and his or her immediate family;

(B) consultation with pupils, parents, teachers, and other personnel regarding the effects of family and other social factors on the learning and developmental requirements of children with disabilities; or

(C) developing a network of community resources, making appropriate referral and maintaining liaison relationships among the school, the pupil, the family, and the various agencies providing social income maintenance, employment development, mental health, or other developmental services.

(2) Special worker services shall be provided only by personnel who possess a:

(A) license in Clinical Social Work issued by a licensing agency within the Department of Consumer Affairs; or

(B) license as a Marriage, Family, and Child Counselor, issued by a licensing agency within the Department of Consumer Affairs; or

(C) credential authorizing school social work.

(s)(1) "Specialized driver training instruction" means instruction to children with disabilities to supplement the general driver-training program.

(2) Specialized driver education and driver training shall be provided only by personnel who possess a credential that authorizes service in driver education and driver training.

(t)(1) "Specially designed vocational education and career development" means:

(A) providing prevocational programs and assessing work-related skills, interests, aptitudes, and attitudes;

(B) coordinating and modifying the general vocational education program;

(C) assisting pupils in developing attitudes, self-confidence, and vocational competencies to locate, secure, and retain employment in the community or shelter environment, and to enable such individuals to become participating members of the community;

(D) establishing work training programs within the school and community;

(E) assisting in job placement;

(F) instructing job trainers and employers as to the unique needs of the individuals;

(G) maintaining regularly scheduled contact with all work stations and job-site trainers; or

(H) coordinating services with the Department of Rehabilitation, the Employment Development Department and other agencies as designated in the individualized education program.

(2) Specially designed vocation education and career development shall be provided only by personnel who possess a:

(A) adult education credential with a career development authorization; or

(B) credential that authorizes instruction in special education or vocational education; or

(C) pupil personnel services credential that authorizes school counseling.

(u)(1) "Specialized services for low-incidence disabilities" means:

(A) specially designed instruction related to the unique needs of pupils with low-incidence disabilities; or

(B) specialized services related to the unique needs of individuals with low-incidence.

(2) Specialized services for pupils with low-incidence disabilities shall be provided only by personnel who possess a credential that authorizes services in special education or clinical or rehabilitation services in the appropriate area of disability.

(v) Transcribers for visually impaired pupils shall have a certificate issued by the Library of Congress as a Braille Transcriber.

(w)(1) "Vision services" means:

(A) adaptations in curriculum, media, and the environment, as well as instruction in special skills; or

(B) consultative services to pupils, parents, teachers, and other school personnel.

(2) Vision services shall be provided only by personnel who possess:

(A) a license as an Optometrist, Ophthalmologist, Physician or Surgeon, issued by a licensing agency with the Department of Consumer Affairs and authorizing the licensee to provide the services rendered, or

(B) a valid credential authorizing vision instruction or services.

(x) Other designated instruction and services not identified in this section shall only be provided by staff who possess a license issued by a licensing agency with the Department of Consumer Affairs authorizing the licensee to provide the specific service or possess a credential authorizing the service or is qualified to provide the service.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Section 17505.2, Business and Professions Code; Section 56366.1, Education Code; and Sections 300.34 and 300.156(b)(1), Title 34, Code of Federal Regulations.

HISTORY

1. Change without regulatory effect repealing section filed 12-4-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 49).

2. New section filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

3. Amendment of subsections (t)-(t)(1), repealer of subsections (t)(2)-(4), new subsection (t)(2) and amendment of NOTE filed 7-29-2002; operative 8-28-2002 (Register 2002, No. 31).

4. Amendment of section and NOTE filed 2-22-2008; operative 3-23-2008 (Register 2008, No. 8).

§ 3066. Out-of-State Nonpublic Schools/Agencies.

For purposes of determining eligibility for certification for a nonpublic school or nonpublic agency located in a state other than California, the Department may accept a valid certificate, credential, license, or registration issued by another state for the requirements set forth in Sections 3064 and 3065.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Section 56366.1, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 12-4-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 49).

2. New section filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

§ 3067. Certification Status.

(a) Certification shall become effective on the date when the nonpublic school or nonpublic agency meets all the application requirements and is approved by the Superintendent except as specified in Subdivision 3067(d)(1).

(b) Certification may be retroactive, provided the nonpublic school or nonpublic agency met all the requirements for certification on the date the retroactive certification is effective.

(c) The certification status of a nonpublic school or nonpublic agency shall be one of the following:

(1) approved certification with no conditions or limitations;

(2) conditional certification for a limited period of time. A conditional certification indicates that the nonpublic school or nonpublic agency has not met all the certification requirements;

(3) suspended certification for a defined period of time pursuant to the provisions of Education Code Section 56366.4. Nonpublic schools or nonpublic agencies with a suspended certification cannot accept new pupils.

(d) Any local education agency that contracts with a certified nonpublic school or nonpublic agency may request the Superintendent to review the status of the nonpublic school or nonpublic agency. Such requests shall be in writing and a copy shall be sent to the nonpublic school or nonpublic agency.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Sections 56366.1 and 56366.4, Education Code.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).

2. Change without regulatory effect repealing section filed 12-4-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 49).

3. New section filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

§ 3068. Appeals and Waivers.

(a) Within twenty (20) working days of receipt of notice, nonpublic schools or nonpublic agencies (appellant) may file a written petition (appeal), on forms provided by the Superintendent, to request a review of the decision to deny, suspend or revoke certification pursuant to Education Code Section 56366.6.

(b) All appeals shall be mailed to the Office of Administrative Hearings, Department of General Services.

(c) There shall be three options for appealing the denial, suspension or revocation of certification. The nonpublic school or nonpublic agency may request:

(1) a written review of the decision to deny, suspend or revoke certification. The Office of Administrative Hearings shall analyze the documentation provided by the appellant and materials provided by the Department and render a decision;

(2) a written review with an oral argument. The Office of Administrative Hearings shall analyze the documentation provided by the appellant and materials provided by the Department. The appellant shall also appear before a hearing officer, on a date scheduled by the Office of Administrative Hearings, to provide oral testimony in support of the appeal. The Department shall also attend the hearing and present testimony to support the decision to deny, suspend or revoke certification. The hearing officer may ask questions of either party. All testimony shall be tape-recorded; or

(3) an oral hearing. The appellant shall appear before a hearing officer, on a date scheduled by the Office of Administrative Hearings, to provide oral testimony in support of the appeal. The Department shall also attend the hearing and present testimony to support the decision to deny, suspend or revoke certification. The hearing officer shall provide the opportunity for both parties to review evidence, call witnesses and cross-examine witnesses. If the appellant fails to appear at the hearing, the petitioner waives the right to a future hearing, unless the hearing officer agrees to reschedule the hearing because of extenuating circumstances.

(d) The Office of Administrative Hearings shall issue the decision, in writing, simultaneously to the appellant and to the Department within thirty (30) working days after receipt of all materials and evidence. This shall be the final administrative decision.

(e) Local education agencies and nonpublic schools and agencies may request the Superintendent to waive Education Code sections 56365, 56366, 56366.3, 56366.6 and 56366.7. Such petitions shall be made in accordance with the provisions of Education Code section 56366.2 and shall be necessary in order to provide services to individuals with exceptional needs consistent with their individualized education program.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Sections 56101, 56366.2 and 56366.6.

HISTORY

1. Renumbering of former section 3068 to section 3069 and new section 3068 filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

§ 3069. Annual Review of Individualized Education Program.

Review of the pupil's individualized education program shall be conducted at least annually by the public education agency. The public education agency shall ensure that review schedules are specified in the individualized education program and contract for the pupil. An elementary school district shall notify a high school district of all pupils placed in a nonpublic school or agency programs prior to the annual review of the individualized education program for each pupil who may transfer to the high school district.

NOTE: Authority cited: Sections 56100(a), (i) and (j), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Sections 56345, 56365-56366.5, Education Code; and 34 C.F.R. 300.4, 300.302, 300.317, 300.343-348 and 300.400-403.

HISTORY

1. Renumbering of former section 3069 to new section 3070 and renumbering of former section 3068 to section 3069 filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

§ 3070. Graduation.

When an individual with exceptional needs meets public education agency requirements for completion of prescribed course of study and adopted differential proficiency standards as designated in the pupil's individualized education program, the public education agency which developed the individualized education program shall award the diploma.

NOTE: Authority cited: Sections 56100(a), (i) and (j), Education Code; 20 U.S.C. 1414(c)(2)(B); and 34 C.F.R. 300.600. Reference: Sections 56345, 56365-56366.5, Education Code; and 34 C.F.R. 300.4, 300.302, 300.317, 300.343-348 and 300.400-403.

HISTORY

1. Renumbering of former section 3069 to new section 3070 filed 9-1-99; operative 9-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 36).

Article 7. Procedural Safeguards

§ 3080. General Provisions.

(a) Sections 4600 through 4671 apply to the filing of a complaint, in accordance with provisions of Title 34, Code of Federal Regulations, Section 76.780-783, regarding a public agency's alleged violation of federal or state law or regulation relating to the provision of a free appropriate public education.

(b) Section 3082 applies to due process hearing procedures which the resolution of disagreements between a parent and a public agency regarding the proposal, or refusal of a public agency to initiate or change the identification, assessment, or educational placement of the pupil or the provision of a free appropriate public education to the pupil.

NOTE: Authority cited: Sections 56100(a) and (j), Education Code. Reference: Sections 56500.1 and 56500.2, Education Code; and 34 CFR 76.780-783.

HISTORY

1. Amendment filed 3-21-88; operative 4-20-88 (Register 88, No. 15).
2. Amendment of subsection (a) filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
3. Editorial correction deleting duplicate heading (Register 95, No. 9).

§ 3081. Complaint Procedures.

NOTE: Authority cited: Sections 56100(a) and (j), Education Code. Reference: Sections 56500.1 and 56500.2, Education Code; and 34 CFR 76.780-783.

HISTORY

1. Renumbering and amendment of former section 3081 to section 3082, and renumbering and amendment of section 3080(a)(1)-(n) to section 3081 filed 3-21-88; operative 4-20-88 (Register 88, No. 15). For prior history, see Registers 86, No. 21; 82, No. 18; and 82, No. 6.
2. Repealer filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

§ 3082. Due Process Hearing Procedures.

(a) A parent or public education agency may initiate a hearing pursuant to Education Code Sections 56500 through 56507 and Title 34, Code of Federal Regulations, Sections 300.56 through 300.514 on any of the matters described in Education Code Section 56501. The hearing shall be conducted by a hearing officer knowledgeable in administrative hearings and under contract with the State Department of Education.

(b) The hearings conducted pursuant to this section shall not be conducted according to the technical rules of evidence and those related to witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. All testimony shall be under oath or affirmation which the hearing officer is empowered to administer.

(c) In addition to the rights afforded both parties to the hearing pursuant to Education Code Sections 56500-56507 and Title 34, Code of

Federal Regulations, Section 300.514, the parties shall also have the following rights:

(1) To call witnesses, including adverse witnesses, and to cross examine witnesses for the other party.

(2) To compel the attendance of witnesses. The hearing officer shall have the right to issue Subpoenas (order to appear and give testimony) and Subpoenas Duces Tecum (order to produce document(s) or paper(s) upon a showing of reasonable necessity by a party).

(3) Absent compelling circumstances to the contrary, and upon motion to the hearing officer to have witnesses excluded from the hearing.

(d) Hearings shall be conducted in the English language; when the primary language of a party to a hearing is other than English, or other mode of communication, an interpreter shall be provided who is competent as determined by the hearing officer. Cost for an interpreter shall be borne by the State Department of Education. Interpreters shall take an oath to interpret fully and accurately.

(e) If either the school district or the parents have an attorney present as an observer, the attorney may watch the proceedings to advise his party at a later date, but the attorney may not present oral argument, written argument or evidence, or consult any manner in or out of the room, during the process hearing.

(f) Notwithstanding Government Code section 11425.10(a)(3) of the Administrative Procedure Act, special education due process hearings are open/closed to the public at the discretion of the parent.

(g) Notwithstanding Government Code section 11440.30 of the Administrative Procedure Act, the hearing officer may conduct all or part of a hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in and to hear the entire proceeding while it is taking place and to observe exhibits.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Sections 11425.10 and 11440.30, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 12–21–81 as an emergency; effective upon filing (Register 82, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–20–82.
2. Certificate of Compliance transmitted to OAL 12–11–81 and filed 4–29–82 (Register 82, No. 18). 3. Renumbering and amendment of Section 3081 to Section 3082 filed 3–21–88; operative 4–20–88 (Register 88, No. 15).
3. Amendment of subsection (d), new subsections (f) and (g) and amendment of NOTE filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6–23–97 order, including amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3083. Service Notice.

Notwithstanding Government Code section 11440.20 of the Administrative Procedures Act, service of notice, motions, or other writings pertaining to special education due process hearing procedures to the California Special Education Hearing Office and any other person or entity are subject to the following provisions:

(a) The notice, motion, or writing shall be delivered personally or sent by mail or other means to the Hearing Office, person, or entity at their last known address and, if the person or entity is a party with an attorney or other authorized representative of record in the proceeding, to the party's attorney or other authorized representative.

(b) Unless a provision specifies the form of mail, service or notice by mail may be by first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile transmission if complete and without error, or by other electronic means as provided by regulation, in the discretion of the sender.

(c) Service must be made by a method that ensures receipt by all parties and the Hearing Office in a comparable and timely manner.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Section 11440.20, Govern-

ment Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including removal of subsection designator from first paragraph and redesignation of former subsections (a)(1)–(a)(3) as subsections (a)–(c), amendment of newly designated subsection (b), and amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3084. Ex Parte Communications.

(a) Notwithstanding Government Code sections 11425.10(a)(8), 11430.20, and 11430.30 of the California Administrative Procedure Act, while special education due process hearing proceedings are pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding, to a hearing officer from an employee or representative of a party or from an interested person unless the communication is made on the record at the hearing.

(b) A proceeding is pending from the date of receipt by the California Special Education Hearing Office of the request for hearing.

(c) If a hearing officer receives a communication in violation of this section, the hearing officer shall disclose the content of the communication on the record and give the parties an opportunity to address the matter if so requested within 10 days of receipt of notification of the communication.

(1) The hearing officer has discretion to allow the party to present evidence concerning the subject of the communication.

(2) The hearing officer has discretion to reopen a hearing that has been concluded.

(d) If a hearing officer receives a communication in violation of this section, the hearing officer shall make all of the following a part of the record in the proceeding:

(1) If the communication is written, the writing and any written response of the hearing officer.

(2) If the communication is oral, a memorandum stating the substance of the communication, any response made by the hearing officer, and the identity of each person from whom the hearing officer received the communication.

(e) The hearing officer shall notify all parties that the communication has been made a part of the record.

(f) Receipt by the hearing officer of a communication in violation of this section may be grounds for disqualification of the hearing officer. If the hearing officer is disqualified, the portion of the record pertaining to the ex parte communication may be sealed by order of the disqualified hearing officer.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Sections 11425.10, 11430.10–11430.30, 11430.50 and 11430.60, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including amendment of subsections (a) and (f) and amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3085. Precedent Decisions.

Notwithstanding Government Code section 11425.10(a)(7) of the Administrative Procedure Act, orders and decisions rendered in special education due process hearing proceedings may be cited as persuasive but not binding authority by parties and hearing officers in subsequent proceedings.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Section 11425.10, Govern-

ment Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3086. Mediation.

(a) Government Code section 11420.10 of the Administrative Procedure Act does not apply to special education due process hearing procedures because Education Code sections 56500–56507 provide for mediation.

(b) Notwithstanding any other provision of law, a communication made in mediation is protected to the following extent:

(1) Anything said, any admission made, and any document prepared in the course of, or pursuant to, mediation under this article is a confidential communication, and a party to the mediation has a privilege to refuse to disclose and to prevent another from disclosing the communication, whether in an adjudicative proceeding, civil action, or other proceeding. This subdivision does not limit the admissibility of evidence if all parties to the proceedings consent.

(2) No reference to mediation proceedings, the evidence produced, or any other aspect of the mediation may be made in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose.

(3) No mediator or interpreter or other participants are competent to testify in a subsequent administrative or civil proceeding as to any statement, conduct, decision, or order occurring at, or in conjunction with, the mediation.

(c) Evidence otherwise admissible outside of mediation under this section is not inadmissible or protected from disclosure solely by reason of its introduction or use in mediation under this section.

(d) Interim and final agreements in writing that result from mediation are admissible for purposes of enforcement unless the written agreement specifies otherwise.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Section 11420.10, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including amendment of subsection (c) and NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3087. Decision by Settlement.

Notwithstanding Government Code section 11415.60 of the Administrative Procedure Act, a decision by settlement may be issued on terms the parties determine are appropriate so long as the agreed-upon terms are not contrary to the law.

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Section 11415.60, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3088. Sanctions.

(a) Provisions for contempt sanctions, order to show cause, and expenses contained in Government Code sections 11455.10–11455.30 of the Administrative Procedure Act apply to special education due process hearing procedures except as modified by (b) through (e) of this section.

(b) Only the presiding hearing officers may initiate contempt sanctions and/or place expenses at issue.

(c) Prior to initiating contempt sanctions with the court, the presiding hearing officer shall obtain approval from the General Counsel of the California Department of Education.

(d) The failure to initiate contempt sanctions and/or impose expenses is not appealable.

(e) The presiding hearing officer may, with approval from the General Counsel of the California Department of Education, order a party, the party's attorney or other authorized representative, or both, to pay reasonable expenses, including costs of personnel, to the California Special Education Hearing Office for the reasons set forth in Government Code section 11455.30(a).

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500–56507, Education Code; Sections 11455.10–11455.30, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506–300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6–23–97 as an emergency; operative 6–23–97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–21–97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–23–97 order, including amendment of subsections (a), (b) and (c) and amendment of NOTE, transmitted to OAL 10–20–97 and filed 12–4–97 (Register 97, No. 49).

§ 3088.1. Sanctions: Withholding Funds to Enforce Special Education Compliance.

(a) When a district, special education local plan area, or county office of education fails to comply substantially with a provision of law regarding special education and related services, the superintendent may withhold funds allocated to such local agency under Chapter 7.2 (commencing with Section 56836) of Part 30 of the Education Code and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.). Such noncompliance may result from failure of the local agency to substantially comply with corrective action orders issued by the Department of Education in monitoring findings or complaint investigation reports. "Substantial noncompliance" means an incident of significant failure to provide a child with a disability with a free appropriate public education, an act which results in the loss of an educational opportunity to the child or interferes with the opportunity of the parents or guardians of the pupil to participate in the formulation of the individual education program, a history of chronic noncompliance in a particular area, or a systemic agency-wide problem of noncompliance.

(b) Prior to withholding funds, the department shall provide written notice to the local educational agency, by certified mail, of the noncompliance findings that are the basis of the Department's intent to withhold funds. The notice shall also inform the local agency of the opportunity to request a hearing to contest the findings and the proposed withholding of funds.

(c) The notice shall include the following information:

(1) The specific past and existing noncompliance that is the basis of the withholding of funds.

(2) The efforts that have been made by the Department to verify that all required corrective actions have been taken.

(3) The specific actions that must be taken by the local educational agency to bring it into compliance by an exact date to avoid the withholding of funds.

(d) The local educational agency shall have 30 calendar days from the date of the notice to make a written request for a hearing. The department shall schedule a hearing within 30 days of receipt of a request for hearing, and notify the local agency of the time and place for hearing. A hearing officer with experience in special education and with administrative hearing procedures shall be assigned by the department to conduct the hearing and make an audio recording of the proceeding. The hearing officer may grant continuances of the date for hearing for good cause.

(e) The local education agency shall have the opportunity, prior to the hearing, to obtain all documentary evidence maintained by the Depart-

ment's Special Education Division that supports the findings of noncompliance at issue in the notice of intent to withhold funds.

(f) Technical rules of evidence shall not apply to the hearing, but relevant written evidence or oral testimony may be submitted, and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the hearing officer to withhold funding shall not be based solely on hearsay evidence but must be supported by evidence produced at the hearing showing substantial noncompliance with the provisions of special education law. Local education agencies may be represented by counsel and the hearings will be open to the public.

(g) If a hearing is not requested, the Department shall withhold funds as stated in the notice. If a hearing is held, a written decision shall be rendered within 30 calendar days from the date the hearing is held.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 56845(a), Education Code.

HISTORY

1. New section filed 1-10-2005; operative 2-9-2005 (Register 2005, No. 2).

§ 3088.2. Enforcement and Withholding of Funds.

(a) The hearing officer shall determine, based on the totality of the evidence, whether a preponderance of the evidence supports the Department's findings of noncompliance and the determination that withholding of funds is appropriate in the particular circumstances of the case. The hearing officer's decision shall be the final decision of the Department of Education.

(b) If the Superintendent of Public Instruction determines, subsequent to withholding funds, that a local educational agency has made substantial progress toward compliance with the state law, federal law, or regulations governing the provision of special education and related services to individuals with exceptional needs, the superintendent may apportion the state or federal funds previously withheld to the local education agency.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 56845(b), Education Code.

HISTORY

1. New section filed 1-10-2005; operative 2-9-2005 (Register 2005, No. 2).

§ 3089. Partial Non-Applicability of Certain Sections of the Administrative Procedure Act to Special Education Due Process Hearing Procedures.

Special education due process hearing procedures shall not be subject to the following provisions of the Administrative Procedure Act: Government Code sections 11415.60 (Decision by settlement); 11420.10 and 11420.30 (Referral of proceedings); 11425.10 (Governing procedures); 11440.10 (Authority of agency head following decision); 11440.20 (Service notice); 11440.30(b) (Conduct of hearing by electronic means); 11445.10-11445.60 (Informal hearing); 11450.05-11450.30 (Subpoenas); 11460.10-11460.70 (Emergency decision); 11465.10-11465.60 (Declaratory decisions); and 11470.10-11470.50 (Conversion of proceeding).

NOTE: Authority cited: Sections 56100(a) and (j) and 56505, Education Code. Reference: Sections 56500-56507, Education Code; Sections 11415.60, 11420.10, 11420.30, 11425.10, 11440.10-11440.30, 11445.10-11445.60, 11450.05-11450.30, 11460.10-11460.70, 11465.10-11465.60 and 11470.10-11470.50, Government Code; Sections 1415(b)(2) and (c), U.S. Code, Title 20; and Sections 300.506-300.513, Code of Federal Regulations, Title 34.

HISTORY

1. New section filed 6-23-97 as an emergency; operative 6-23-97 (Register 97, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-21-97 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 6-23-97 order, including amendment of section and NOTE, transmitted to OAL 10-20-97 and filed 12-4-97 (Register 97, No. 49).

Article 8. State Board of Education Waivers

§ 3100. Resource Specialist Caseload Waivers.

(a) A school district, special education local plan area, county office of education, or any other public agency providing special education or related services may request the State Board of Education to grant a waiver of the maximum resource specialist caseload, as set forth in Education Code section 56362(c), only if the waiver is necessary or beneficial either (1) to the content and implementation of a pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs by specified federal law or (2) to the agency's compliance with specified federal law.

(b) The State Board of Education shall grant any waiver request submitted in accordance with Subdivision (a) only:

(1) when the facts indicate that failure to do so would hinder either

(A) implementation of a pupil's individualized education program or (B) compliance by the requesting agency with specified federal law; and

(2) when the waiver request meets all of the conditions set forth in Subdivisions (c) and (d).

(c) A request to waive the maximum resource specialist caseload shall be "necessary or beneficial" within the meaning of Subdivision (a) and Education Code section 56101 only if all of the following conditions are met.

(1) The waiver's effective period does not exceed one past school year and/or the school year in which it is submitted.

(2) The number of students to be served by an affected resource specialist under the waiver does not exceed the maximum statutory caseload of 28 students by more than four students.

(3) The waiver does not result in the same resource specialist having a caseload in excess of the statutory maximum for more than two school years.

(d) For the purposes of Subdivision (b), a request to waive the maximum resource specialist caseload shall not "hinder" either (1) implementation of a pupil's individualized education program or (2) compliance by the requesting agency with specified federal law if all of the following conditions are met:

(1) The requesting agency demonstrates to the satisfaction of the State Board of Education (A) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions and (B) that the extraordinary conditions have been resolved or will be resolved by time the waiver expires.

(2) The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their individualized education programs.

(4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.

(5) The waiver demonstrates to the satisfaction of the State Board of Education that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to (A) the resource specialist's pupil contact time and other assigned duties and (B) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

NOTE: Authority cited: Sections 33031 and 56100(a), Education Code. Reference: Sections 56101 and 56362(c), Education Code.

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HISTORY

1. New article 8 (section 3100) and section filed 3-2-99; operative 4-1-99 (Register 99, No. 50).

Chapter 3.5. Joint Regulations for Handicapped Children

Subchapter 1. Interagency Responsibilities for Providing Services to Handicapped Children

§ 3300. Joint Regulations for Handicapped Children.

CROSS-REFERENCE: See Title 2, Division 9, Chapter 1, Articles 1-9, Sections 60000-60610, not consecutive.

HISTORY

1. New Division 3.5 (Chapter 1, Section 3300) printed as cross—reference only (Register 86, No. 21).

Chapter 4. Gifted and Talented Pupil Program

Subchapter 1. General Provisions

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer of Division 4 (Chapters 1-4, Sections 300-3861, not consecutive) and new Division 4 (Chapters 1-6, Sections 3800-3870, not consecutive) filed 3-21-80; effective thirtieth day thereafter (Register 80, No. 12). For prior history, see Registers 69, Nos. 25 and 51; 71, Nos. 51; 72, No. 21; 77, Nos. 39 and 48.
2. Repealer of Chapter 1 (Section 3800) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 2. Eligibility

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer of Chapter 2 (Section 3810) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 3. Standards Used for Identification of Gifted and Talented Pupils

§ 3820. Method of Identification.

The school district shall have the responsibility for the development of a method for the identification of pupils as gifted and talented. The method of identification shall be included in the application and shall conform to these general principles:

- (a) Standards shall ensure the identification of pupils who possess a capacity for excellence far beyond that of their chronological peers.
- (b) Methods shall be designed to seek out and identify those pupils whose extraordinary capacities require special services and programs.
- (c) Provision shall be made for examining a pupil's range of capacities.
- (d) Methods and techniques of identification shall generate information as to a pupil's capacities and needs.
- (e) There shall be equal opportunity to be identified in the categories served.

(f) Methods shall be designed to seek out and identify gifted and talented pupils from varying linguistic, economic, and cultural backgrounds.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52202, Education Code.

HISTORY

1. Amendment filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3821. Responsibility for Identification.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3822. Categories for Identification.

Each district shall use one or more of these categories in identifying pupils as gifted and talented. In all categories, identification of a pupil's extraordinary capability shall be in relation to the pupil's chronological peers.

- (a) Intellectual Ability: A pupil demonstrates extraordinary or potential for extraordinary intellectual development.
- (b) Creative Ability: A pupil characteristically:
 - (1) Perceives unusual relationships among aspects of the pupil's environment and among ideas;
 - (2) Overcomes obstacles to thinking and doing;
 - (3) Produces unique solutions to problems.
- (c) Specific Academic Ability: A pupil functions at highly advanced academic levels in particular subject areas.
- (d) Leadership Ability: A pupil displays the characteristic behaviors necessary for extraordinary leadership.
- (e) High Achievement: A pupil consistently produces advanced ideas and products and/or attains exceptionally high scores on achievement tests.
- (f) Visual and Performing Arts Talent: A pupil originates, performs, produces, or responds at extraordinarily high levels in the arts.
- (g) Any other category which meets the standards set forth in these regulations.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52202, Education Code.

HISTORY

1. Amendment of NOTE filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3823. Evidence for Identification.

Prior to identification, pertinent evidence as to a pupil's capacity for excellence far beyond that of chronological peers shall be compiled.

(a) Appropriate data to be collected by the school district may include: school, class, and individual pupil records; individual tests (including summary and evaluation by credentialed school psychologist); group tests; interviews and questionnaires (teacher, parent, and others). The range of data shall be broad enough to reveal gifts and talents across cultural, economic, and linguistic groups.

(b) Evidence of a pupil's capability may also be derived from pupil products, comments from peers, opinions of professional persons.

(c) Studies of the factors contributing to a pupil's underachievement and studies of a pupil's underachievement resulting from handicapping or disadvantaged conditions shall be considered.

(d) The pertinent evidence shall reflect consideration of the economic, linguistic, and cultural characteristics of the pupil's background.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52203, Education Code.

HISTORY

1. Amendment of NOTE filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3824. Identification and Placement.

The final determination of eligibility of a pupil, as provided in Section 3820, for gifted and talented programs shall rest with the administrative head of the school district or a designated employee of the district in accordance with procedures adopted by the local governing board.

(a) This school employee shall base a decision upon the evaluation of the pertinent evidence by the school principal or a designee of the school principal, a classroom teacher familiar with the school work of the pupil, and, when appropriate, a credentialed school psychologist.

(b) To determine the full range of a pupil's capability, a person recognized as an expert in the gifted and talented category under consideration, and/or an individual who has in-depth understanding of the pupil's linguistic or cultural group shall participate in the evaluation of the evidence unless there is no doubt as to the pupil's eligibility.

(c) These individuals may review screening, identification, and placement data in serial order provided that these individuals shall meet to resolve differences in assessment and recommendations.

(d) This shall not preclude the use of an identification and placement committee.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52203(a), Education Code.

HISTORY

1. Amendment of NOTE filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 4. Minimum Standards for Programs

Article 1. General

§ 3830. Minimum Standards for All Types of Programs.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3831. General Standards.

The following general standards apply to all types of gifted and talented programs:

(a) Unique opportunities for high-achieving and under-achieving pupils who are identified as gifted and talented shall be provided.

(b) Districts shall make provisions for ensuring participation of pupils in the upper range of intellectual ability.

(c) Districts shall make provisions for ensuring full participation of pupils from disadvantaged and varying cultural backgrounds.

(d) The quality of existing programs for gifted and talented pupils shall be maintained and/or improved.

(e) Experimentation with a variety of programmatic approaches and cost levels shall be encouraged.

(f) Written consent of a parent, guardian, or other person having actual custody and control of the pupil shall be on file with the district prior to the pupil's participation in the program.

(g) The district program shall meet the specific needs and requirements, as specified in Education Code Section 52200(c), of gifted and talented pupils. Academic components shall be included in all program offerings.

(h) The district program shall reflect the assessed needs of its identified pupils.

(i) All identified gifted and talented pupils shall have an opportunity to participate in the gifted and talented program.

(j) The district shall develop a written plan for the district program which shall be available for public inspection. The written plan shall describe the appropriately differentiated curricula for identified gifted and talented pupils as well as specify the methods used to examine the appropriateness of the identified pupil's total educational experience including articulation with other specially funded programs which serve gifted and talented pupils. The plan shall include:

(1) The purposes of the program, including the general goals and specific objectives which pupils are expected to achieve;

(2) The rationale for the district's method of identification of gifted and talented pupils;

(3) Where appropriate, procedure for the consideration of the identification and placement of a pupil who was identified as gifted or talented in the district from which the pupil transferred;

(4) The services to be rendered and the activities to be included for pupils participating in special day classes, receiving special services, or participating in special activities for an amount of time as specified in Education Code Section 52206;

(5) Plan for evaluating the various components of the program. Evaluation shall include an annual review of pupil progress and of the administration of the program;

(6) Procedures for modifying the district gifted and talented program on the basis of the annual review;

(7) A staff development plan based upon a needs assessment which includes specification of requisite competencies of teachers and supervisory personnel;

(8) Procedures for ensuring continuous parent participation in recommending policy for planning, evaluating, and implementing the district program;

(9) A procedure to inform parents of a pupil's participation or nonparticipation in the gifted and talented program;

(10) An objective related budget.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52206, Education Code.

HISTORY

1. Amendment of subsection (j)(4) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Article 2. Types of Programs

§ 3840. Special Day Classes and Special Services or Activities.

All program options shall be in compliance with applicable state and federal regulations. Programs may consist of:

(a) A "Special Day Class" for gifted and talented pupils consists of one or more classes (as defined in Education Code Section 51016) totaling a minimum school day where each of the one or more classes meets the following requirements:

(1) It is composed of pupils identified as gifted and talented.

(2) It is especially designed to meet the specific academic needs of gifted and talented pupils for enriched or advanced instruction and is appropriately differentiated from other classes in the same subjects in the school.

(3) It is taught by a teacher who has specific preparation, experience, personal attributes, and competencies in the teaching of gifted children.

(b) Part-time Grouping: Pupils attend classes as defined in Education Code Section 51016 or seminars which are organized to provide advanced or enriched subject matter for a part of the school day. These classes are composed of identified gifted and talented pupils.

(c) Enrichment Activities: Pupils remain in their regular classrooms but participate in supplemental educational activities planned to augment their regular educational programs. In these supplemental educational activities, the pupils use advanced materials and/or receive special opportunities from persons other than the regular classroom teacher.

(d) Cluster Grouping: Pupils are grouped within a regular classroom setting and receive appropriately differentiated activities from the regular classroom teacher.

(e) Independent Study: Pupils are provided with additional instructional opportunities through either special tutors or mentors, or through enrollment in correspondence courses specified in Education Code Section 51740 and Section 1633 of this title. These opportunities shall be supervised by a certificated person employed by the pupil's school district.

(f) Acceleration: Pupils are placed in grades or classes more advanced than those of their chronological age group and receive special counseling and/or instruction outside of the regular classroom in order to facilitate their advanced work.

(g) Postsecondary Education Opportunities: High school pupils for a part of the day attend classes conducted by college or community college or participate in College Entrance Examination Board Advanced Placement programs. When needed, the high school shall provide books and supplies.

(h) Services for Underachieving Gifted and Talented Pupils: Pupils receive services designed to assist them in developing basic skills needed to overcome, as soon as possible, their underachievement and to enable them to achieve in their academic classes at levels commensurate with their individual abilities. This shall not preclude their participation in other program options.

(i) Services for Linguistically Diverse, Culturally Divergent and/or Economically Disadvantaged Gifted and Talented Pupils: Pupils receive services designed to assist them to develop their potential to achieve at the high levels commensurate with their abilities. This shall not preclude their participation in other program options.

(j) Other: Pupils participate regularly, on a planned basis, in a special counseling or instructional activity or seminars carried on during or outside of the regular school day for the purpose of benefiting from additional educational opportunities not provided in the regular classroom in which the pupils are enrolled.

(k) Other services or activities approved 90 days in advance by the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52206, Education Code.

HISTORY

1. Amendment of subsections (a)(3) and (i) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

§ 3841. Contracting for Programs.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Article 3. Length of Program

§ 3850. Length of Program.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52200, Education Code.

HISTORY

1. Repealer of Article 3 (Section 3850) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 5. Approval of Programs

§ 3860. Approval of Programs.

School districts shall file applications with the Superintendent of Public Instruction by June 15 of the preceding school year for prior approval of proposed programs for the next school year. The Superintendent of Public Instruction shall submit to the State Board of Education for final approval a list of tentatively approved agencies.

(a) The application shall be accompanied by the written plan for the program described in Section 3831(j) and shall explain how the program will be appropriately differentiated from the regular school program of the district and how it will meet the specific academic needs of the participating gifted and talented pupils.

(b) Approval shall be based upon evidence of compliance with the general standards set forth in Section 3831.

(c) Approval shall be for a period to be determined by the Superintendent of Public Instruction but not to exceed three years with specific programmatic data to be submitted annually. Approval of programs may be renewed upon submission of an application form and written evaluation of the district's or county's gifted and talented program in accordance with Section 3831(j).

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52204, Education Code.

HISTORY

1. Amendment of subsection (b) filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 6. Indirect Cost Expenditures

§ 3870. Indirect Cost Expenditures.

The approved indirect cost rate or 3 percent of the state apportionment for the district's gifted and talented program, whichever is the lesser, shall be the maximum amount allowable as indirect costs funded through gifted and talented program monies.

NOTE: Authority cited: Sections 33031 and 52203, Education Code. Reference: Section 52203(c), Education Code.

HISTORY

1. Amendment of NOTE filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).

Chapter 5. Consolidated Categorical Aid Programs

Subchapter 1. General Provisions

Article 1. Scope of the Chapter

§ 3900. Scope of the Chapter.

The provisions of this chapter apply to applications for funds under the following statutes and programs:

(a) Special Elementary School Reading Instruction Program (Education Code former Sections 54100-54145 and Sections 62000-62002.5).

(b) School Improvement Programs (Education Code former Sections 52000-52049 and Sections 62000-62002.5).

(c) Compensatory Programs under Title I of the Elementary and Secondary Education Act of 1965, Helping Disadvantaged Children Meet High Standards, Parts A through F, as amended by the Improving America's Schools Act of 1994, Public Law 103-382; (Education Code Sections 54400-54465 except Programs for Migrant Children under Education Code Sections 54440-54445).

(d) Educationally Disadvantaged Youth Programs (Education Code Sections 54000-54008 and former Sections 54020-54033).

(e) Safe and Drug Free Schools and Communities (Title IV of the Elementary and Secondary Education Act of 1965 as amended by the Improving America's Schools Act of 1994, Public Law 103-382).

(f) Innovative Education Program Strategies (Title VI of the Elementary and Secondary Education Act of 1965 as amended by the Improving America's Schools Act of 1994, Public Law 103-382).

(g) The Chacon-Moscone Bilingual-Bicultural Education Act of 1976 (Education Code, former Sections 52160-52178 and Sections 62000-62002.5).

(h) Local Staff Development Programs (Education Code Sections 44670-44671.5).

(i) Dwight D. Eisenhower Professional Staff Development Program (Title II of the Elementary and Secondary Education Act of 1965 as amended by the Improving America's Schools Act of 1994, Public Law 103-382).

NOTE: Authority cited: Sections 18101, 33031, 54005, 54406 and 62000.2 and former Section 54102, Education Code. Reference: Sections 44670-44671.5, 54000-54008, 54400-54425, 54460-54465, 62001 and 62002 and former Sections 52000-52049, 52160-52178, 54020-54033 and 54100-54145, Education Code; and Sections 6301 et seq., Title 20, U.S.C.

HISTORY

1. Repealer of Chapter 1 (Sections 3900-3948, not consecutive) and new Chapter 1 (Sections 3900-3947, not consecutive) filed 5-17-78; effective thirtieth day thereafter (Register 78, No. 20). For history of former Chapter 1, see Registers 74, No. 52; 75, Nos. 21 and 26; 76, Nos. 40 and 43; 77, Nos. 13, 17, 22 and 39.

2. Amendment of section and NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

Article 2. Administrative Procedures

§ 3920. Application Procedure.

Each district shall make a single application to the State Board of Education for approval or continuance of programs under this Chapter on such forms and at such times as the Superintendent of Public Instruction shall determine.

§ 3921. Federal Regulations.

For programs defined in Section 3900(c), (e), (f), and (i), appropriate federal regulations apply.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 54000–54041, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 6–23–99; operative 7–23–99 (Register 99, No. 26).

§ 3922. Waiver Procedure.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 54000–54041, Education Code.

HISTORY

1. Repealer of section and new NOTE filed 6–23–99; operative 7–23–99 (Register 99, No. 26).

§ 3923. Complaint Procedure.

NOTE: Authority cited: Section 33031, Education Code; P.L. 95–561, Section 168. Reference: P.L. 95–561, Section 128.

HISTORY

1. Repealer filed 10–16–80; effective thirtieth day thereafter (Register 80, No. 42).

Article 3. Program Requirements

§ 3930. Comprehensive Plan.

Each school receiving consolidated application funds as defined in Section 3900(b), (c), (d), (h), and (i), shall develop a comprehensive program plan for students who will receive additional services from these funds. Each plan shall be based on an assessment of school capability to meet the educational needs of each pupil, specify objectives, and indicate steps necessary to achieve such objectives, including intended outcomes. This comprehensive plan shall account for all program services for participating students, including at least those provided by district and by consolidated application program funds. A school that includes the provisions of all state and federal categorical educational programs in a single, comprehensive plan shall be deemed to have complied with the planning requirements of those programs.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 64001, Education Code.

HISTORY

1. Amendment filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment of section and NOTE filed 10–17–2000; operative 11–12–2000 (Register 2000, No. 42).

§ 3931. Instructional Program.

Each school maintaining programs under this chapter shall plan and implement instructional programs which are responsive to the individual needs, strengths, interests, and learning styles of each student. Such instruction shall be designed to enable students to make continuous progress and learn at a rate appropriate to their abilities and of sufficient quality to promote the development of each student's maximum potential.

§ 3932. Parent, Community, Teacher, Other School Personnel, and Student Involvement.

School districts maintaining programs under this chapter shall provide opportunities for the involvement of parents, community representatives, classroom teachers, other school personnel, and students in secondary schools, in the planning, implementation and evaluation of their consolidated application programs. Schools shall be deemed to have met this requirement by establishing a school site council under the provisions of Education Code sections 52852 and 52855.

The local governing board may satisfy the requirement of Education Code section 52054(a) for a school-site and community team by augmenting an existing school site council authorized under Education Code section 52852 and former Education Code section 52012 with at least one additional person not employed at the school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 52054 and 64001, Education Code.

HISTORY

1. Amendment of section and NOTE filed 10–17–2000; operative 11–12–2000 (Register 2000, No. 42).

§ 3933. Staff Development.

School districts maintaining programs under this chapter shall provide staff development for all certificated, paraprofessional, other appropriate classified, and volunteer personnel involved in the program to assure successful implementation of the program. Staff development activities must be related to the unmet needs for staff as identified in the needs assessment.

The district shall provide for joint participation of certificated, paraprofessional, other appropriate classified, and volunteer personnel in staff development activities. Attendance and participation in staff development activities shall be encouraged through appropriate announcements to members of district and school advisory committees and school-site councils.

§ 3934. Isolation and Segregation of Pupils.

(a) No program utilizing consolidated application funds shall sanction, perpetuate or promote the segregation of students on the basis of race, ethnicity, religion, sex, or socio-economic status.

(b) No program utilizing consolidated application funds shall:

- (1) Create special tracks for the educationally disadvantaged;
- (2) Establish adjustment, pregrade, or junior grade classes for the educationally disadvantaged; or
- (3) Physically isolate children from their classmates on a scheduled daily basis, except in the following instances:

(A) At the elementary level, children who are assigned to a regular classroom teacher responsible for their instructional program may be moved temporarily to a physical location other than the regular classroom, provided that such assignment is based on a comprehensive diagnostic assessment of student needs until the diagnosed need has been alleviated. Such an alternate physical location includes, but is not limited to, a reading laboratory, a mathematics laboratory, a bilingual-bicultural learning center, an intergroup education learning center, a diagnostic clinic, or similar facilities where the specific needs of the student may best be served.

(B) At the secondary level, students may be assigned to a special class for one or more periods or their equivalent, provided that such assignment is based on a comprehensive diagnostic assessment of student needs and such assignment will terminate when the diagnosed need has been alleviated.

§ 3935. Multicultural Education.

NOTE: Authority cited: Sections 33031, 54005 and 62000.2, Education Code. Reference: Sections 54000–54041, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 3936. Bilingual-Bicultural Education.

NOTE: Authority cited: Sections 33031, 54005 and 62000.2, Education Code. Reference: Sections 54000–54041, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 3937. Basic Skills.

All schools participating in programs funded through the consolidated application shall provide instruction designed to ensure that participating students acquire the basic skills, including reading, writing, language, and mathematics.

NOTE: Authority cited: Sections 54004–54005, Education Code. Reference: Section 54000, Education Code.

HISTORY

1. New section filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36).

Article 4. Fiscal Concerns

§ 3940. Maintenance of Effort.

Districts maintaining programs under this chapter shall assure that the sum of local and state apportionment resources utilized in programs for participating students has not been reduced.

§ 3941. Reports and Inspection of Records.

On request of the Superintendent of Public Instruction, school district, cooperative, and consortia records that are required to be maintained by the district shall be made available for inspection to verify the accuracy of reports and to determine the conformity of program activities to the applicable program plans.

NOTE: Authority cited: Sections 33031 and 52039, Education Code. Reference: Sections 52000–52047, Education Code.

HISTORY

1. Amendment filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 3942. Continuity of Funding.

Districts maintaining programs under this chapter shall have their programs approved for a period not to exceed three consecutive years contingent (1) upon the availability of funds, (2) upon compliance by the district with the rules promulgated by the State Board of Education and the State Superintendent of Public Instruction, and (3) upon an annual evaluation which demonstrates that the program is not one of low effectiveness, under criteria established by the local governing board.

§ 3943. Federal Categorical Aid Funds for Eligible Students Attending Private, Nonprofit, Tax Exempt Elementary or Secondary Schools.

When federal regulations for categorical aid funding require or permit categorical aid services to be provided for nonpublic school students, such services shall be comparable to those provided for public school students. Criteria for student eligibility for these services shall be the same in nonpublic as in public schools, except where federal regulations indicate otherwise.

The district shall continuously involve school officials and parents of nonpublic schools receiving federal categorical aid funds in the identification of needs, the establishment of selection criteria for students to receive extra services, the development of program objectives and activities, and the evaluation design.

§ 3944. Fiscal and Technical Requirements.

(a) Districts maintaining programs under this chapter shall develop budgets, account records, claims for reimbursement and reports in accordance with the California School Accounting Manual.

(b) Auditable records shall be developed by the local educational agency to document compliance with federal and state regulations.

(c) Districts maintaining programs under this chapter shall maintain title to equipment purchased with funds under this chapter and shall maintain inventory records sufficient to demonstrate that such equipment is used only for the particular project approved, provided that obsolete or unneeded equipment may be disposed of in accordance with guidelines established by the Department of Education.

§ 3945. Cooperative Programs.

(a) School districts with less than \$75,000 total funding available from all consolidated application sources must enter into a cooperative program. Any district receiving consolidated application funds on January 1, 1978, and which was not then required to enter into a cooperative is exempt from this requirement. Where the cooperative administrative

agency is a county office of education, and the participating district is a direct service district, charges may be made only for those services that are in addition to those that are provided as direct services.

(b) Each cooperative shall annually execute a formal agreement with each participating district regarding levels and types of services and amounts to be charged for those services.

§ 3946. The Control, Safeguards, and Disposal of Equipment Purchased with State and Federal Consolidated Application Funds.

(a) Equipment, as defined in the California State Accounting Manual, purchased with state consolidated application funds, and expendable and nonexpendable personal property, as defined in Title 45, Code of Federal Regulations, Part 100.1, purchased with federal consolidated application funds, shall be retained by the recipient district as long as there is a need for such property to accomplish the purpose of the project.

(b) All equipment purchased with consolidated application funds provided under consolidated application programs shall be subject to property management standards maintained by the recipient district, including, but not limited to, the following controls:

(1) Records.

An up to date inventory of each item of equipment shall be kept at the district office and at the appropriate school site. The inventory shall include:

(A) A description.

(B) Identification number.

(C) Acquisition date and original cost.

(D) Funding source.

(E) Location.

(F) Ultimate disposition, including sale price or method used to determine current fair market value.

(2) Labeling.

Each equipment item shall have a label that contains the name of the project, the identification number, and the name of the district.

(3) Disposal.

Equipment purchased with federal or state funds and no longer needed for project purposes may be taken off the consolidated application inventory list in accordance with existing federal regulations governing the disposal of equipment purchased with federal consolidated application funds.

§ 3947. Administrative Costs.

The following requirements apply to the funding sources identified in Section 3900(b), (d), and (g).

(a) Indirect Costs.

In no case shall the indirect cost rate charged exceed three percent of a district's funding, or the districtwide restricted indirect cost rate approved by the State Department of Education, whichever is less. This rate shall be applied to the total direct expenditures, less capital outlay, for these programs.

(b) Expenditures for Centralized Services.

(1) Expenditures for centralized services shall include direct costs and direct support costs, as defined in the most recent California School Accounting Manual, administered centrally within the district, cooperative, or consortium.

(2) Each comprehensive school program plan shall contain the amounts budgeted for centralized services and a description of the centralized services to be provided to the school program.

NOTE: Authority cited: Section 33031 and former Section 52039(b), Education Code. Reference: former Section 52039(b)(1), Education Code.

HISTORY

1. Amendment filed 4–14–82; effective thirtieth day thereafter (Register 82, No. 16).
2. Amendment of first paragraph and subsection (b)(1), repealer of subsection (b)(2), subsection renumbering, and amendment of NOTE filed 6–23–99; operative 7–23–99 (Register 99, No. 26).

Article 5. Complaint Procedures

§ 3950. Definitions.

NOTE: Authority cited: Section 33031, Education Code; P.L. 95-561, Section 168. Reference: P.L. 95-561, Section 128.

HISTORY

1. Adopt new article 5 (sections 3950-3953) filed 10-16-80; effective thirtieth day thereafter (Register 80, No. 42).
2. Repealer filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

§ 3951. Local Educational Agency (LEA).

NOTE: Authority cited: Section 33031, Education Code; P.L. 95-561, Section 168. Reference: P.L. 95-561, Section 128.

HISTORY

1. Repealer filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

§ 3952. State Department of Education.

NOTE: Authority cited: Section 33031, Education Code; P.L. 95-561, Section 168. Reference: P.L. 95-561, Section 168.

HISTORY

1. Repealer filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

§ 3953. Compliance Agreement.

NOTE: Authority cited: P.L. 95-561, Section 169(c). Reference: P.L. 95-561, Section 169(c).

HISTORY

1. Repealer filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

Subchapter 2. School Improvement Programs

Article 1. Definitions

§ 4000. Classroom Teacher.

"Classroom teacher" means all teachers as defined in former Education Code Section 33150(b) except those included in the definition of "other school personnel" as defined in former Education Code Section 52001(a).

NOTE: Authority cited: former Section 52039; and Sections 33031 and 62000.2, Education Code. Reference: former Sections 33150 and 52001; and Section 62002.5, Education Code.

HISTORY

1. New Chapter 2 (Sections 4000-4091, not consecutive) filed 5-17-78; effective thirtieth day thereafter (Register 78, No. 20).
2. Amendment of section and NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

§ 4001. Parity.

"Parity" of membership between various groups of persons identified in former Education Code section 52012 and Education Code section 52852 means equal numbers of persons.

NOTE: Authority cited: former Section 52039 and Sections 33031 and 62000.2, Education Code. Reference: former Sections 33150, 52001 and 52012 and Sections 52852 and 62002.5, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

§ 4002. Parent Eligible for Membership on the School-Site Council.

"Parent eligible for membership on the school site council" means a person who is the mother, father, or legal guardian, or one acting in loco parentis of a pupil attending the particular school but who is not employed at the school attended by such pupil.

NOTE: Authority cited: former Section 52039 and Sections 33031 and 62000.2, Education Code. Reference: former Sections 33150, 52001 and 52012 and Sections 52852 and 62002.5, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

§ 4003. Non-English-Speaking Pupil.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52010-52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4004. Limited-English-Speaking Pupil.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52010-52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4005. Pupil with Exceptional Needs.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52010-52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4006. Pupil with Exceptional Abilities.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52010-52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4007. Elementary School.

"Elementary school" is a school which has two or more elementary grades (K-6).

Article 2. District Master Plan—Additional Elements

§ 4020. Community Participation.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000-52047, 62001 and 62002, Education Code.

HISTORY

1. Repealer of Article 2 (Sections 4020-4025) and new Article 2 (Sections 4020-4024) file 9-5-79; effective thirtieth day thereafter (Register 79, No. 36). For history of former article, see Register 78, No. 20.
2. Amendment filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
3. Change without regulatory effect repealing section and amending NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4021. Responsiveness to the Improvement Objectives of Participating Schools.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000-52047, 62001 and 62002, Education Code.

HISTORY

1. Amendment filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
2. Change without regulatory effect repealing section and amending NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4022. Additional Elements of District Master Plan.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52034, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and amending NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4023. Availability of the District Master Plan.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52034, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and amending NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4024. Waivers.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and amending NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Article 3. School Improvement Plan

§ 4040. Review of School Improvement Plans.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4041. Existing School Plans: Early Childhood Education.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Amendment filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Change without regulatory effect repealing section and amending NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4042. Program Strategies.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4060. Evaluation.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: “Chapter” was renamed to “Subchapter”; “Division” was renamed to “Chapter”; and “Part” was renamed to “Division.”
2. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4061. Availability of Evaluation Information.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Article 4. Program Review

§ 4070. Program Reviews Conducted by Consortia.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Amendment of subsections (a)(3), (a)(4) and (a)(5) filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Change without regulatory effect repealing section and amending NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4071. Monitoring of Consortia Activities and Training of Review Team Members.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Amendment filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Change without regulatory effect repealing section and amending NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Article 5. Selection and Expansion

§ 4080. Phase-In of Elementary Schools.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4081. Criteria for Approval of Planning Application: Elementary Schools.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4082. Alternative Elementary Selection Process.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4083. Secondary School Applications.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4084. Criteria for Approval of Planning Application: Secondary Schools.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52000–52049.1, 62001 and 62002, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adding NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Article 6. Fiscal Concerns

§ 4090. Expenditure of Planning Grant Funds.

School site councils shall establish a single school improvement budget for all participating grades and ensure that planning grant funds are only used for activities directly related to planning and the development of the school improvement plan, and preparation for implementation.

§ 4091. School Improvement Budget.

School site councils with state allocated school improvement funds shall establish a single school improvement budget with these funds for all participating grades to meet the objectives of the school improvement plan. In no case shall funds be budgeted for the sole purpose of reducing class size.

NOTE: Authority cited: Sections 33031 and 52039(b), Education Code. Reference: Sections 52000–52049.5, Education Code.

HISTORY

1. Amendment filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).

Subchapter 3. Local Staff Development Programs

Article 1. Local Staff Development Programs

§ 4100. Definitions.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Repealer of Chapter 3 (Sections 4100–4115, not consecutive) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36). For history of former chapter, see Register 78, No. 20.
2. Renumbering of Chapter 4 (Sections 4200–4209, not consecutive) to Chapter 3 (Sections 4100–4109) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36). For history of former chapter, see Register 78, No. 20.
3. Change without regulatory effect repealing subchapter 3 (articles 1–2), article 1 (sections 4100–4109) and section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4101. School District Master Plans.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4103. Staff Development Objectives and Programs.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4104. Criteria for District Selection of Staff Development Programs.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4105. Assurance Requirement for District Application.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4106. Criteria for Department of Education Approval of District Applications.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4107. Evaluation.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4108. Maintenance of Effort.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4109. Eligibility for Funding.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

Article 2. Funding

§ 4110. Geographical Distribution of Funds.

NOTE: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Sections 44671.4 and 44680.04, Education Code.

HISTORY

1. New Article 2 (Sections 4110–4113) filed 9–19–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 38).
2. Change without regulatory effect repealing article 2 (sections 4110–4113) and section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4111. Allocation of Funds Among Schools.

NOTE: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Section 44671.4, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4112. Annual Funding Levels.

NOTE: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Sections 44670.9 and 44671.4, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

§ 4113. Cost Limitations.

NOTE: Authority cited: Sections 33031 and 44671.2, Education Code. Reference: Sections 44670.3(b) and (c), 44670.9 and 44671.4, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 10–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 43).

Subchapter 4. Economic Impact Aid

Article 1. Purpose

§ 4200. Purpose.

This chapter and Chapters 5, 6, and 7 implement the three legislative purposes of the Economic Impact Aid (EIA) Program pursuant to Education Code Sections 54000 et seq.

One purpose is to provide financial assistance to certain school districts having significant concentrations of special need students in meeting their obligation to ensure equal educational opportunity for pupils of limited English proficiency an obligation which exists, irrespective of whether or not a district qualifies for assistance under this chapter or whether or not the EIA funds are made available under this chapter. This purpose is implemented in Chapter 5.

A second equally important purpose is to provide financial assistance to such school districts to design and implement State Compensatory Education (SCE) programs to meet the special educational needs of their educationally disadvantaged students. This purpose is implemented in Chapter 6. A third purpose is to provide financial assistance for other designated purposes such as to improve school security. This purpose is implemented in Chapter 7.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54020, Education Code.

HISTORY

1. New Chapter 4 (Articles 1–4, Sections 4200–4203) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36).
2. Amendment filed 9–17–82; effective thirtieth day thereafter (Register 82, No. 38).

Article 2. Allocation of Funds

§ 4201. Allocation of Funds.

NOTE: Authority cited: Section 62000.2, Education Code. Reference: former Section 54020, Education Code.

HISTORY

1. Amendment of subsection (a) filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Repealer of section and amendment of NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

Article 3. General Accounting Requirements

§ 4202. Accounting.

School districts receiving EIA funds must maintain separate accounting records which document the total amount of EIA funds spent under Chapters 5, 6, and 7. Such records shall be maintained at the school level. In Title I eligible schools receiving both ESEA, Title I and State Compensatory Education funds, the ESEA Title I accounting requirements may be applied.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 41010, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division." The organizational headings referenced in this regulation and/or history notation have not been renamed; refer to the renamed organizational headings described in this paragraph.

Article 4. Administration and Evaluation Allocations

§ 4203. Limits on Administration and Evaluation Allocations.

School districts receiving EIA funds shall not allocate more than 10 percent of their total EIA allocation for the purposes of administration and evaluation of their programs which are funded by EIA funds.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004, Education Code.

Subchapter 5. Bilingual Education

Article 1. Purpose

§ 4300. Purpose.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52160-52179 and 54004.7, Education Code.

HISTORY

1. New Chapter 5 (Articles 1-4; Sections 4300-4320, not consecutive) filed 9-5-79; effective thirtieth day thereafter (Register 79, No. 36).
2. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
3. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4301. Effective Instruction—Bilingual Learning Opportunities.

NOTE: Authority cited: Section 62000.2, Education Code. Reference: former Sections 52161, 52163(e), (f), 52163.5 and 52165, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

2. Repealer of section and amendment of NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).

Article 2. Definitions

§ 4302. Definitions.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52163, 52165(b), 52166 and 52178, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

Article 3. Program Requirements

§ 4303. Program Requirements.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52161, 52163(e), (f) and 52165, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4304. Census.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Section 62002, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Amendment of subsections (a) and (b) and amendment of NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).
3. Repealer of section and amendment of NOTE filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 4305. Identification and Assessment.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Section 52164.1, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4306. Reclassification.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 62002, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4306 to Section 4307, and new Section 4306 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Amendment of subsections (a) and (b) filed 5-9-85; effective thirtieth day thereafter (Register 85, No. 19).
3. Amendment of subsections (a) and (b) refiled 5-16-85; designated effective 5-22-85 pursuant to Government Code Section 11346.2(d) (Register 85, No. 19).
4. Amendment of section and NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).
5. Repealer of section and amendment of NOTE filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 4307. Educational Services.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52163, 52165 and 52167, Education Code.

HISTORY

1. Amendment filed 3-21-80; effective thirtieth day thereafter (Register 80, No. 12).
2. Renumbering and amendment of former Section 4307 to Section 4308, and renumbering and amendment of former Section 4306 to Section 4307 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).

3. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4308. Parent Notification.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52161, 52164.1, 52164.3, 52165 and 52173, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4308 to Section 4309, and renumbering and amendment of former Section 4307 to Section 4308 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4309. Teacher and Teacher Aide Criteria.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Sections 52163, 52165, 52166, 52168, 52172 and 52178, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4309 to Section 4310, and renumbering and amendment of former Section 4308 to Section 4309 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4310. Waivers.

NOTE: Authority cited: Section 62000.2(d), Education Code. Reference: Section 52178, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4310 to Section 4311, and renumbering and amendment of former Section 4309 to Section 4310 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 5-18-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 4311. Academic Assessment.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Section 62002, Education Code; and 20 U.S.C. 1703(f).

HISTORY

1. Renumbering and amendment of former Section 4311 to Section 4312, and renumbering and amendment of former Section 4310 to Section 4311 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Amendment of section and NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).
3. Repealer of section and amendment of NOTE filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 4312. Advisory Committees.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 62002 and 62002.5, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4312 to Section 4313, and renumbering and amendment of former Section 4311 to Section 4312 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Amendment of section and NOTE filed 6-23-99; operative 7-23-99 (Register 99, No. 26).
3. Repealer of section and amendment of NOTE filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 4313. Monitoring and Enforcement.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 52177, 62001 and 62002, Education Code.

HISTORY

1. Renumbering and amendment of former Section 4312 to Section 4313 filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect repealing section and amending NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Article 4. Special Funds to Assist Districts

§ 4320. Determination of Funding to Support Programs to Overcome the Linguistic Difficulties of English Learners.

(a) School districts are required to provide services to English learners in all schools in accordance with Education Code Sections 300 et seq. and 62002. In order to meet this requirement, districts shall allocate adequate resources from local, state, and other funds. To assist in providing adequate resources, a portion of EIA funds may be used to provide services to schools which otherwise may not be eligible for SCE funds.

(b) School districts may determine the amount and level of resources to meet the excess cost requirements of Education Code Section 62002, and may use EIA funds for all or part of meeting those requirements. There are a variety of allocation patterns and levels which may be appropriate in local districts.

(c) Those determinations may be made in accordance with a standard to be established as outlined in subsection (d) below. The standard for the district will be described in the district's intradistrict allocation plan required by Education Code Sections 54004.3, 54004.5, and 54004.7.

(d) School districts may use a standard established by:

(1) Determining the number eligible educationally disadvantaged students in all schools eligible to receive state compensatory education funds.

(2) Determining the number of English learners who are not counted in subsection (1).

(3) Dividing the sum of subsection (1) and (2) into the total EIA allocation (after subtracting total district EIA indirect costs and EIA security, limited to not more than 10 percent of the total EIA grant).

(4) The resultant per pupil expenditure levels (as established in subsection (3)) will establish the appropriate minimum average per pupil level of funding to provide services to pupils of limited English proficiency in all schools in the district with such students in attendance.

(e) If a school district decides to provide EIA funding for services to English learners at a per pupil level either below or above the standard, the district must apply to the State Department of Education for approval of that per pupil level. In their intradistrict allocation plan, those districts must demonstrate that their per pupil level will fairly provide the necessary resources to meet the needs of all English learners. These districts shall have an affirmative responsibility to demonstrate that their intradistrict allocation system and allocations from other sources will meet the requirements of Education Code Section 62002.

(f) It is the intent of this article to encourage school districts to make an equitable distribution of EIA funds and ESEA, Title I, funds among all students receiving services; therefore, the allocation of EIA funds under this article will precede the allocation of SCE funds under Chapter 6 or Chapter 7 and precede the allocation of ESEA, Title I, funds. In addition, districts will not allocate SCE or ESEA, Title I, funds for English learners who are receiving, from this article, services of the same nature and scope as would otherwise be provided by SCE or ESEA, Title I, funds so that the total per pupil funding level exceeds the maximum established pursuant to Section 4416. It is assumed that the funds allocated under this article provide at least a portion of the services that would have been provided by SCE or ESEA, Title I.

NOTE: Authority cited: Sections 33031, 54005 and 62000.2, Education Code. Reference: Sections 54004.3, 54004.5, 54004.7, 62001 and 62002, Education Code.

HISTORY

1. Amendment filed 9-17-82; effective thirtieth day thereafter (Register 82, No. 38).
2. Change without regulatory effect amending section heading, section and NOTE filed 6-22-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

Subchapter 6. State Compensatory Education Programs

Article 1. Program Purpose

§ 4400. Purpose.

EIA funds needed by school districts to support State Compensatory Education programs (i.e. SCE funds) provided under this chapter must be used by school districts to expand and improve the educational programs provided for educationally disadvantaged children.

NOTE: Authority cited: Section 54005, Education Code. Reference: Sections 54001, 54004.3, 54020, Education Code.

HISTORY

1. New Chapter 6 (Articles 1–10; Sections 4400–4425, not consecutive) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36).

Article 2. Program Requirements

§ 4401. Federal Requirements.

Except as otherwise provided in this chapter, SCE funds must be expended in accordance with the requirements of Title I of the Elementary and Secondary Education Act as amended.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: 20 U.S.C. 6301.

HISTORY

1. Amendment of section and NOTE filed 6–23–99; operative 7–23–99 (Register 99, No. 26).

§ 4402. Consistent Services.

The plan for compensatory education services developed pursuant to Section 3930 shall ensure that these services are consistent with the program strategies and activities otherwise provided for educationally disadvantaged students. The compensatory education services for educationally disadvantaged students who are English learners shall expand and improve the services already otherwise provided to these students.

NOTE: Authority cited: Sections 33031, 54005 and 62000.2, Education Code. Reference: Sections 54000–54020, 60001 and 60002, Education Code.

HISTORY

1. Change without regulatory effect amending section and NOTE filed 6–22–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 26).

§ 4403. Secondary School Program.

The program provided for participating secondary school students under this chapter shall make provision for preparing such students for post-secondary education, training, or employment.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54000, Education Code.

Article 3. Designating Eligible and Participating School

§ 4410. General Standards for Determining School Eligibility.

General standards for determining school eligibility are:

(a) A school district must determine, on an annual basis, for all schools in the district (e.g., kindergarten through grade twelve), which schools have high concentrations of pupils in need. SCE funds may be used only in such schools and in schools meeting one or more of the requirements of Sections 4411 and 4413.

(b) The school district shall use the following criteria for determining concentrations of pupils in need, giving equal weight to each criterion:

(1) The concentration of limited- and non-English-speaking students;

(2) The concentration of students from low-income families;

(3) The concentration of educationally disadvantaged students.

In calculating the concentrations of pupils in need at each school site, the district may, at its option, use either an unduplicated count of pupils in need or count a child more than once if he or she meets more than one criterion. Districts may use other factors, in addition to using criteria (1)–(3), to identify pupils in need. Districts proposing to use such other factors must demonstrate to the Superintendent of Public Instruction that the additional factors chosen by the district measure special needs of pupils which are not otherwise adequately measured by criteria (1)–(3).

(c) A school will be considered to have a high concentration of pupils in need if it meets one of the following criteria:

(1) On a numerical or percentage basis (or a combination of such bases), the concentration of pupils in need is as high or higher than the districtwide average. If a combination of the numerical and percentage bases is used, the number of schools considered eligible for assistance under this section may exceed the number of such schools that could be so designated if only one such method had been used.

(2) At least 25 percent of the students are limited- or non-English-speaking;

(3) At least 25 percent of the students are from low-income families;

(4) At least 50 percent of the students are educationally disadvantaged per Section 4414.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.5, Education Code.

§ 4411. Selecting Participating Schools.

A district may choose to operate compensatory education programs at all eligible schools if it is able to provide a program for each educationally disadvantaged child at those schools which meet the criterion established by the district for participation in such programs at a level of funding per pupil meeting the requirements of Article 5. If the available compensatory education funds are not sufficient to serve all educationally disadvantaged students who meet the district criterion for participation at every eligible school, the district must select schools for participation in rank order, from highest to lowest, according to the relative degree of concentration of pupils in need as determined under Section 4410.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.5, Education Code.

§ 4412. Uniform Measure for Designating Eligible and Participating Schools.

The same measures of low-income, educational disadvantage, and linguistic needs, which shall be chosen by the school district and which may be composites of several indicators, shall be used with respect to all such schools, both to identify eligible schools and, where applicable, to determine the ranking of each school. Acceptable types of data for student identification by category are as follows:

(a) LES/NES students. Measures of the concentrations of LES/NES students in each school site shall be made in accordance with the census required by Section 4304. The numbers determined through this census will be the data used in the intradistrict allocation plan.

(b) Students from low-income families. The 1970 census data on the number of children from low-income families; data on children in families receiving payments under the program of aid to families with dependent children under a state plan approved under Title IV of the Social Security Act and foster children; data concerning children eligible to receive benefits under the National School Lunch Act; and data on children residing in homes with low-assessed value for a single family residence are acceptable sources. A school district may select any of these data or a combination of such data to determine its count of students from low-income families. However, whatever data are used must be applied uniformly throughout the district and must be clearly identified in the intradistrict allocation plan.

(c) Educationally disadvantaged students. The number of educationally disadvantaged students will be established through the use of general

standards for determining student eligibility as discussed in Section 4414 of these regulations. If a school district varies its procedures for such identification from those established to satisfy the requirements of Section 4414, such variation must be described clearly in the intradistrict allocation plan.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.5, Education Code.

§ 4413. Exceptions to the General Rule for Designating Eligible and Participating Schools.

(a) Designating Grade Spans. Among schools eligible for assistance under this article, a school district may elect to designate schools having specified grade spans as participating schools, irrespective of the relative incidence of pupils in need in other grade spans.

(b) Continuation of Participating School Designation. A school may be selected as a participating school under Section 4410 for a fiscal year even though it does not qualify under such subsection for that fiscal year if such school was eligible for and participated in the program in either of the two preceding fiscal years.

(c) Use of Title I Rules for Designating Schools. Notwithstanding Sections 4410 and 4411, a school district may choose to designate eligible and participating schools in accordance with 20 U.S.C. 2732.

(d) Expanding the Number of Participating Schools. Notwithstanding Sections 4410 and 4411, a school district may designate a school as participating if it:

(1) Satisfies the requirements of 20 U.S.C. 2752.

(2) Ensures that all children who satisfy the school district's criterion for participation in programs assisted under this article and attend schools designated as participating schools in accordance with Section 4410 participate in those schools' programs.

(3) Ensures that schools made eligible for assistance under this article will be served in rank order.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.5, Education Code.

Article 4. Designating Students to Be Participants

§ 4414. General Standards for Determining Student Eligibility.

(a) School districts must use SCE funds for educationally disadvantaged students attending participating schools as determined in accordance with Sections 4410–4413.

(b) For purposes of this article, the term “educationally disadvantaged students” means students who have need for special educational assistance in order that their level of educational attainment may be raised to that appropriate for students of their age. The term includes LES/NES students who are not proficient in English and students with a primary language other than English who are proficient in the English language and who are not functioning at the level appropriate for students of their age.

(c) In general, the needs assessment used to identify educationally disadvantaged students within eligible schools must be based on objective empirical evidence in the English language which indicates the students whose educational attainment in the basic instructional areas is below that appropriate for students of their age. It is presumed that the use of standardized, nationally normed tests meets the requirements of this subsection. The use of other objective measures, including validated criterion-referenced tests, diagnostic tests, and development scales, may be used if they provide a standardized means for determining the level of educational attainment appropriate to children of their age, and if such measures meet the following criteria:

(1) The cutoff point, score, or criterion for eligibility must have been determined by its empirical relationship to the educational attainment appropriate to the age of the student and may be identified by the fiftieth (or more stringent) percentile on a nationally normed test.

(2) Districts must have conducted an empirical study of the relationship between their means of identification and a nationally normed test, and demonstrate that students identified as eligible for participation in compensatory education programs by using the alternative procedure would have scored below grade level using a nationally normed standardized test.

It is not necessary that such a study be conducted with every group of students to be identified. Districts are encouraged to use a variety of valid, reliable indicators to provide the best possible information on student performance for purposes of identification of eligible students.

NOTE: Authority cited: Section 54005, Education Code. Reference: Sections 54001, 54004.5, 54020, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: “Chapter” was renamed to “Subchapter”; “Division” was renamed to “Chapter”; and “Part” was renamed to “Division.”

§ 4415. General Standards for Determining Students to Be Participants.

(a) In the event that not all eligible students in those schools designated as participating schools can be participants, a school district must select a uniform objective criterion for purposes of determining which eligible students will participate in programs receiving funds from SCE and/or Title I as amended. The criterion selected must ensure that the students of greatest need are selected as participants.

(b) The total number of students receiving ESEA, Title I and SCE funds, as determined by district policy pursuant to this article, must not exceed the total number of students who score below the fiftieth percentile on a nationally normed achievement test unless the district is able to demonstrate that such a policy is appropriate.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.3, Education Code; 20 U.S.C. 2733.

Article 5. Level of Funding

§ 4416. Minimum and Maximum Levels of Funding.

Districts shall determine minimum and maximum levels of funding for all educationally disadvantaged students who participate in programs funded in whole or in part by SCE and ESEA, Title I according to the following criteria:

(a) The level of funding ensures that the program is of sufficient size, scope, and quality to give reasonable promise of achieving the objectives of the program.

(b) The level of funding is not excessive or extravagant in terms of the needs of students to be served.

NOTE: Authority cited: Section 54005, Education Code. Reference: Sections 52168, 54004.5(b), Education Code.

§ 4417. Recognition of Local Compensatory Education Programs.

(a) Local school districts may provide compensatory education services using local funds and such local programs may be counted for the purposes of the intradistrict fund allocation plan, if it meets the requirements of 20 U.S.C. 2751(b)(1)(C). The district must request advance determination by the State Department of Education that the local compensatory education program is approvable.

(b) The district may provide school-level program description outlining the specific services provided under these locally-devised programs. The school-level funding must be shown on local school and district-level applications.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54001, Education Code.

Article 6. Allocation Alternatives

§ 4420. General Standards.

(a) In general, except as provided in the next sentence, SCE funds must be distributed according to an objective criterion without taking into account the availability or existence of Title I funds and in accordance with

subsections (b) through (g). The existence of Title I funds may be taken into account in allocating SCE funds so long as students satisfying the objective criteria for participation residing in Title I eligible areas receive, in the aggregate, the same amount of SCE funds as they would have received if Title I funds were not available.

(b) Students residing in Title I eligible areas who satisfy the objective criterion must receive assistance under SCE or Title I before any student who does not satisfy the objective criterion.

(c) School districts must ensure that the services provided to all educationally disadvantaged students in greatest need of assistance residing in Title I areas who receive assistance under SCE in lieu of Title I and who would have received assistance under Title I if SCE did not exist, are of the same nature and scope that would have been provided under Title I.

(d) School districts must also ensure that educationally disadvantaged students attending nonpublic schools will be selected for participation in Title I programs according to the Title I procedures for ranking school attendance areas without regard to an exemption to the Title I ranking procedure which allows programs for students residing in certain areas to receive SCE funds in lieu of Title I funds.

(e) Further, all schools which satisfy Section 4410 (pertaining to SCE school eligibility) must be served before any school which does not satisfy Section 4410.

(f) SCE funds must be allocated at a level per participant in Title I eligible areas which is consistent with Section 4416 and that is at least equal to the minimum level per participant used in non-Title I eligible areas.

(g) At a minimum, at least 50 percent of SCE funds must be spent in Title I eligible areas.

§ 4421. Allocation Models.

Each school district shall allocate SCE funds using one of the following methods, and in its consolidated application, shall specify to the Department of Education the method used.

(a) Alternative 1:

(1) Identify the schools eligible for SCE funds in accordance with Section 4410.

(2) Identify students who meet the objective criterion eligible for participation in SCE programs in accordance with Section 4414.

(3) Identify all students meeting the criteria established in subsection (2) who reside in attendance areas of schools eligible for SCE funds according to the criterion established in subsection (1).

(4) Determine a level of funding per participant which is in accordance with Section 4416 and Section 4420.

(5) Compute the percentage of students participating in SCE programs who reside in Title I eligible attendance areas.

(6) Determine the amount of SCE funds to be allocated for SCE programs serving participating students who reside in Title I eligible attendance areas such that the percentage of SCE funds allocated to Title I eligible areas is at least as great as the percentage of SCE participating students computed in subsection (5).

(7) Allocate the portion of the district's SCE funds which must be spent in Title I eligible areas as determined in subsection (6) to all Title I eligible schools which are also eligible to receive SCE funds such that the same percentage of students eligible to participate in SCE programs is served in each eligible school; e.g., if there are sufficient funds to serve 60 percent of the eligible students in all Title I eligible schools, then SCE funds would be allocated to serve 60 percent of the eligible students in each eligible Title I school.

(8) Allocate the portion of the district's SCE funds which may be spent in non-Title I eligible areas (the amount remaining after subtracting SCE funds allocated to Title I schools as determined in subsection (6)) to all non-Title I eligible schools which are eligible to receive SCE funds such that the same percentage of students eligible to participate in SCE programs are served in each eligible school; e.g., if there are sufficient funds to serve 60 percent of the eligible students in all non-Title I eligible schools, then SCE funds would be allocated to serve 60 percent of the eligible students in each eligible non-Title I school.

(9) Allocate Title I funds to Title I eligible schools and students in accordance with Title I law and regulations.

(10) If Title I eligible schools are skipped for purposes of receiving Title I funds because their programs for educationally disadvantaged students are funded by SCE, these Title I eligible schools must receive the same nature and scope of service as those which would have otherwise been provided under Title I.

(b) Alternative 2:

(1) Identify the schools eligible for SCE funds in accordance with Section 4410.

(2) Identify students who meet the district criterion for participation in SCE programs in accordance with Section 4414.

(3) Identify all students meeting the criterion established in subsection (2) who reside in attendance areas of schools eligible for SCE funds according to the criterion established in subsection (1).

(4) Determine a level of funding per participant which is in accordance with Section 4416 and Section 4420.

(5) Compute the percentage of students who meet the district criterion for participation in SCE programs who reside in Title I eligible attendance areas.

(6) Determine the amount of SCE funds to be allocated for SCE programs serving participating students who reside in Title I eligible attendance areas such that the percentage of SCE funds allocated to Title I eligible areas is at least as great as the percentage of SCE participating students computed in subsection (5).

(7) Rank schools eligible for SCE funds which are in Title I eligible areas according to Section 4411.

(8) Allocate the portion of SCE funds which may be spent in non-Title I eligible areas (the amount remaining after subtracting SCE funds allocated to Title I eligible schools as determined in subsection (6)) to schools in the order established in subsection (9). For each such school receiving an allocation (except for the last school to receive funds), the amount allocated must be sufficient to serve all students who meet the district criterion for participation.

(9) Allocate Title I funds to Title I eligible schools and students in accordance with Title I law and regulations.

(10) If Title I eligible schools are skipped for purposes of receiving Title I funds because their programs for educationally disadvantaged students are funded by SCE, these Title I eligible schools must receive the same nature and scope of service as those which would have otherwise been provided under Title I.

(11) If Title I eligible schools are skipped for purposes of receiving Title I funds because their programs for educationally disadvantaged students are funded by SCE, Title I services must be provided to qualifying nonpublic school students who reside within an area skipped such that the services provided are comparable to the services provided to public school students served by SCE funds. The total number of nonpublic school participants served by Title I must be determined without regard to the availability of SCE funds. Services to nonpublic school students shall be provided to eligible areas in Title I rank order.

(c) Alternative 3:

(1) Identify the schools eligible for SCE funds in accordance with Section 4410.

(2) Identify students who meet the district criterion for participation in SCE programs in accordance with Section 4414.

(3) Rank schools eligible for SCE funds in accordance with Section 4411.

(4) Determine a level of funding per participant which is in accordance with Section 4416 and Section 4420.

(5) Allocate SCE funds to schools in the order established in subsection (3). For each such school receiving an allocation (except for the lowest ranked school to receive funds), the amount allocated must be sufficient to serve all students who meet the district criterion for participation.

(6) Allocate Title I funds to Title I schools in Title I rank order. However, any Title I schools receiving SCE funds for all eligible students identi-

fied as participants pursuant to subsection (5) shall be skipped for the purposes of receiving Title I funds.

(7) Programs in Title I eligible schools skipped for the purposes of receiving Title I funds pursuant to subsection (6) must provide services of the same nature and scope as those that would otherwise be provided under Title I.

(8) The level of funding per participant established pursuant to Section 4416 of this chapter for Title I schools receiving SCE funds must be at least as high as the level of funding per participant in schools which receive Title I alone.

(9) Title I services must be provided to qualifying nonpublic school students who reside within an area skipped under subsection (6) such that the services provided are comparable to the services provided to public school students served with SCE funds. The total number of nonpublic school participants served by Title I must be determined without regard to the availability of SCE funds. Services to nonpublic school students shall be provided to eligible areas in Title I rank order.

(d) Alternative 4:

(1) Identify the schools eligible for SCE funds in accordance with Section 4410.

(2) Identify students who meet the district criterion for participation in SCE programs in accordance with Section 4414.

(3) Rank schools eligible for SCE funds in accordance with Section 4411.

(4) Determine a level of funding per participant in accordance with Section 4416 and Section 4420 such that schools eligible for both Title I and SCE funds receive a combination of Title I and SCE funds.

(5) Allocate SCE funds to schools in the order established in subsection (3). For each such school receiving an allocation (except for the lowest ranked school to receive funds), the amount allocated must be sufficient to serve all students who meet the district criterion for participation.

(6) Allocate Title I funds to Title I eligible schools in Title I rank order by allocating Title I funds in addition to SCE funds such that the total state and federal compensatory education funds per participant reach the level per participant determined in subsection (4).

(7) Title I eligible schools that receive a combination of Title I and SCE funds must be allocated at least the same combined level of funding per participant as Title I eligible schools that are allocated Title I funds alone.

(e) Alternative 5:

(1) Select a grade span to be served by SCE funds.

(2) Identify the schools eligible for SCE funds in accordance with Section 4410, which include the grade spans selected in subsection (1).

(3) Rank schools eligible for SCE funds in accordance with Section 4411 which contains the grade spans selected in subsection (1).

(4) Determine a level of funding per participant which is in accordance with Sections 4416 and 4420.

(5) Allocate SCE funds to schools in the order established in subsection (4). For each such school receiving an allocation (except for the lowest ranked school to receive funds), the amount allocated must be sufficient to serve all students who meet the district criterion for participation in the grade span selected.

(6) Select a grade span to be served by Title I funds which is not served with SCE funds.

(7) Allocate Title I funds to Title I grade spans in Title I rank order.

(8) SCE programs in Title I eligible grades skipped for the purposes of receiving Title I funds pursuant to subsection (6) must provide services of the same nature and scope as those that would otherwise be provided under Title I.

(9) Title I services must be provided to qualifying nonpublic school students who reside within an area or are in a grade skipped under subsection (7) such that the services are comparable to services provided to public school students served with SCE funds. The total number of nonpublic school participants served by Title I must be determined without regard to the availability of state funding. Services to nonpublic school students shall be provided to eligible areas in Title I rank order.

(f) Alternative 6:

(1) Determine a method of allocation which is consistent with Section 4420(a). The allocation procedure used must be described in detail in the district's consolidated application.

NOTE: Authority cited: Section 54004, Education Code. Reference: Sections 54004.5, 54004.7, Education Code.

Article 7. Evaluation

§ 4422. Evaluation Plan.

Each school plan shall include an evaluation plan which addresses, at a minimum, the areas specified in Education Code Section 54006. The Department of Education shall specify administratively, through required planning and reporting procedures, the minimum criteria for each school-level evaluation plan. The minimum criteria shall include: a general framework of accepted evaluation procedures such that the school advisory council and local governing board will have information adequate to carry out their responsibilities; provision for such information as will be necessary to enable the Superintendent of Public Instruction and the State Board of Education to carry out their responsibilities pursuant to Sections 54005 and 54006.

NOTE: Authority cited: Section 54004, Education Code. Reference: Section 54006, Education Code.

Article 8. District and School Advisory Councils

§ 4423. Advisory Councils.

Each participating school district shall establish a district advisory council and shall also establish a school advisory council at each participating school. Advisory councils established pursuant to this article shall comply with the ESEA, Title I, law and regulations pertaining to advisory councils. These councils shall include broad representation of the parent population served by this district or school respectively including socioeconomic and ethnic groups represented in the district or school attendance area.

(a) If Title I services are provided to students in nonpublic schools, each nonpublic school system with such students must be given the opportunity to submit the name of a candidate(s) for the election of the district advisory council.

(b) A nonpublic system may establish advisory councils at its schools which receive Title I services.

(c) Applications for funds under this chapter must contain a certification of participation in the Title I/SCE planning process as follows:

(1) District Application—the district advisory council chairperson;

(2) School-level plans—the school advisory council chairperson;

(3) The District Application—Nonpublic Schools section—a representative for the Nonpublic Schools.

NOTE: Authority cited: Section 54005, Education Code. Reference: 20 U.S.C. 2735; 45 C.F.R. 116a.25.

Article 9. Comparability

§ 4424. Comparability of Services.

(a) After July 1, 1979, in accordance with procedures established by the Department of Education, an application of a local educational agency for grants under Section 54420 of the California Education Code shall not be approved, nor payments made of SCE funds under a previously approved application of such agency, unless that local educational agency has demonstrated that exclusive of local, state, and federal categorical funding, including School Improvement Programs, State Compensatory Education Programs, and programs pursuant to Chapter 4, Article 4 of this division:

(1) The number of children enrolled per full-time equivalent classroom teacher and teacher's aide in schools pursuant to this section is not more than 105 percent of the average number of pupils per teacher and

teacher's aide in all public schools serving comparable grade levels in the applicant's district, or

(2) The annual expenditure per child for salaries per full-time equivalent teacher and teacher's aide, exclusive of that portion of salary based on longevity, in schools providing programs pursuant to this section is not less than 95 percent of expenditures per child in all public schools serving comparable grade levels in the applicant's district, or

(3) The district can demonstrate to the satisfaction of the State Superintendent of Public Instruction that the resources per pupil enrolled in each school pursuant to this section is not less than the resources per pupil in all of the schools within the district serving comparable grade levels.

(b) After comparability has been demonstrated pursuant to subdivision (a) of this section, and with prior approval of the Superintendent of Public Instruction, a local educational agency experiencing high student mobility need not make adjustments in order to maintain comparability unless the percentage amount computed under (a)(1) is more than 110 or the percentage amount computed under (a)(2) is less than 90.

NOTE: Authority cited: Sections 33031 and 54005, Education Code. Reference: Sections 54000–54005, Education Code; and 20 USC 2736, 34 CFR 201.120.

HISTORY

1. Amendment filed 4–14–82; effective thirtieth day thereafter (Register 82, No. 16).

Article 10. California Preschool Program

§ 4425. California State Preschool Program.

California State Preschool Education Program funds are directed at children of low-income families. Preschool classes may be operated by any public agency or any private agency which meets eligibility requirements. Classes may be operated without regard to specific school sites, but preferably should be established in target areas to serve children who reside within the attendance areas of schools eligible for ESEA, Title I, or State Compensatory Education funds.

In order for children to be eligible for entrance into a State Preschool Education Program, the children must have reached their third birthday and have not yet reached the legally eligible age for kindergarten.

NOTE: Authority cited: Sections 54004–54005, Education Code. Reference: Section 8320, Education Code.

§ 4426. Maintenance of Effort.

Districts maintaining programs under this chapter shall assure that the sum of local and state apportionment resources utilized in programs for participating students has not been reduced. The following standards apply:

(a) Except as provided in subdivisions (c) and (d) of this section, the Superintendent of Public Instruction may approve an application from a Local Education Agency (LEA) or state agency for state compensatory education funds only if it is demonstrated in the application that its expenditures of state and local funds for the education of children, either on an aggregate or average daily attendance basis, are not less for the first fiscal year preceding the fiscal year in which the agency is applying for funds than for the second preceding fiscal year.

(b) In demonstrating compliance with the requirement in subdivision (a) of this section, only the following expenditures may be included in the computation:

(1) Expenditures by object classifications 1000 through 5000 series in the California School Accounting Manual, 1980 Edition, except expenditures for community service classes, and

(2) Expenditures of federal funds received under Public Law 874 (School Assistance in Federally Affected Areas).

(c) In determining compliance with the requirement in subdivision (a) of this section, the Superintendent of Public Instruction may disregard a decrease of less than ten percent in allowable expenditures from the second preceding fiscal year to the first preceding fiscal year.

(d) Upon written application, the Superintendent of Public Instruction may determine that the LEA or state agency is in substantial compliance with the requirement in subdivision (a) of this section, provided, the

applicant demonstrates that any decrease in allowable expenditures from the second preceding fiscal year to the first preceding fiscal year did not result in any decrease in the level of services provided.

NOTE: Authority cited: Sections 33031 and 54005, Education Code. Reference: Section 54001, Education Code; and 20 USC 2736, 34 CFR 200.60–200.61.

HISTORY

1. New section filed 4–14–82; effective thirtieth day thereafter (Register 82, No. 16).

Subchapter 7. Miscellaneous Programs

Article 1. Schoolwide Programs

§ 4500. Low Income Schoolwide Programs.

EIA funds and/or local funds may be used to satisfy the requirement of Section 20 U.S.C. 2753(b)(7)(B) pertaining to low income schoolwide programs.

NOTE: Authority cited: Section 54004, Education Code; 20 U.S.C. 2812. Reference: 20 U.S.C. 2751.

HISTORY

1. New Chapter 7 (Sections 4500–4503) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36).

§ 4501. Low Achievement Schoolwide Programs.

(a) A school district may, after reviewing advice from the district parent advisory council established under Section 4423, use a portion of its EIA funds to satisfy the requirements of subsection (b) of this section.

(b) Notwithstanding any provision of Chapters 5, 6, or 7 of this division, a school district may use a portion of its EIA funds and/or local funds to meet the needs of educationally disadvantaged students by improving the entire educational program in a school in which not less than 75 percent of the students are educationally disadvantaged (in accordance with criteria used by the school district to satisfy the requirements of Section 4415) if the requirements of subsection (c) are met.

(c) A school may be designated for a schoolwide program under subsection (b) if:

(1) A plan has been developed meeting the requirements of 20 U.S.C. 2753(b)(1), (2), (3), (5), and (6);

(2) The plan has been approved by the school advisory council established under Section 4423;

(3) In the case of a school district in which there are one or more schools described in subsection (b) and there are also one or more other participating schools, the local educational agency makes EIA funds available for children in such schools described in subsection (b) in amounts which, per educationally disadvantaged child served, equal or exceed the amount of such funds made available per educationally disadvantaged child served in such other schools;

(4) EIA funds may be provided to such schools in amounts which, per child served who is not educationally disadvantaged, equal the amount of funds provided under this section which, per educationally disadvantaged child served, are made available for children in such schools; and

(5) The average per-pupil expenditure in schools described in subsection (b) (excluding amounts expended under this section) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year.

(d) The Superintendent of Public Instruction may approve the plan of any local educational agency for a schoolwide program if that plan meets the requirements of subsection (c).

(e) For any school with an approved plan under this section, the local school district shall be relieved of requirements with respect to:

(1) Maintaining separate accounting records for each funding source.

(2) Identifying particular students as being eligible to participate, and

(3) Demonstrating that services provided from those funding sources are supplementary to the base program. The local district shall, however, demonstrate that the services provided in such schools are substantially greater than services furnished to schools without funding and shall meet all other school plan requirements contained in law and regulations.

NOTE: Authority cited: Sections 54004–54005, Education Code. Reference: 20 U.S.C. 2753.

Article 2. School Security

§ 4502. Improvement of School Security.

School districts may request that the Superintendent of Public Instruction approve a specific portion of the EIA funds they receive be designated for expenditure for noninstructional costs to improve school security. Such noninstructional expenditures may be used to meet costs arising from incidents of vandalism, necessary security costs, insurance costs, and/or other costs directly related to school security. In such application, school districts will specify the amounts of such funds and the purpose of such expenditures. No school district shall request an amount for such purposes which exceeds the portion of \$2,000,000 that the student population (K–12) of such district represents of the student population (K–12) of the state.

NOTE: Authority cited: Section 54007, Education Code. Reference: Section 54007, Education Code.

§ 4503. Alternative Program Options for Special Needs.

(a) EIA funds may be used to carry out any or all of the three alternative special program options permitted by this section subject to the provisions of subsection (b).

(b) Program options permitted by subsections (c), (d), and (e) of this section may only be exercised if:

(1) The school parent advisory council has approved and the district parent advisory council has reviewed the implementation of such option.

(2) The school proposing to exercise such option is a school which is participating in the state compensatory education program.

(3) Not more than 25 percent of a district's EIA allocation is expended to carry out the program options authorized by this section and the schoolwide program options authorized by Sections 4500 and 4501.

(4) A schoolwide needs assessment has been conducted to determine the necessity of providing such option(s).

(c) Students who have been eligible and have participated in compensatory education programs in accordance with the objective criterion established by the district pursuant to Sections 4414 and 4415 may continue to participate in such services, even though such student no longer meets the objective criterion, if such student met the objective criterion in either of the two preceding fiscal years.

(d) In schools with more than 50 percent of their students from low income families (determined in accordance with Section 4412), students who do not meet the objective criterion established by the district pursuant to Sections 4414 and 4415, but who test below the 90th percentile (as established through the use of the appropriate test instruments pursuant to Section 4414) may be eligible to receive excess cost services in order that they may be assisted in reaching their full potential.

(e) If adequately documented in a schoolwide needs assessment, a participating SCE school may use EIA funds to conduct a schoolwide project which is explicitly designed to provide assistance to the educationally disadvantaged students attending such schools.

NOTE: Authority cited: Section 54005, Education Code. Reference: Section 54004.1, Education Code.

Subchapter 8. Bilingual Education Programs

NOTE: Authority cited: Section 54020, Education Code. Reference: Section 54004.7, Education Code.

HISTORY

1. Repealer of Chapter 8 (Sections 4300–4305) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36). For history of former chapter, see Registers 78, No. 20; 77, No. 39; and 75, No. 21.

Subchapter 9. Bilingual–Bicultural Education Programs

NOTE: Authority cited: Section 54020, Education Code. Reference: Section 54004.7, Education Code.

HISTORY

1. Repealer of Chapter 9 (Articles 1–4; Sections 4310–4322, not consecutive) filed 9–5–79; effective thirtieth day thereafter (Register 79, No. 36). For history of former chapter, see Registers 78, No. 20; 77, No. 39; and 77, No. 13.

Chapter 5.1. Uniform Complaint Procedures

Subchapter 1. Complaint Procedures

Article 1. Definitions

§ 4600. General Definitions.

As used in this chapter, the term:

(a) "Appeal" means a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body's decision.

(b) "Beginning of the year or semester" means the first day classes necessary to serve all the students enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day students attend classes for that semester.

(c) "Complainant" means any individual, including a person's duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination in programs and activities funded directly by the state or receiving any financial assistance from the state.

(d) "Complaint" means a written and signed statement alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the public agency shall assist the complainant in the filing of the complaint.

(e) "Complaint investigation" means an administrative process used by the Department or local educational agency for the purpose of gathering data regarding the complaint.

(f) "Complaint procedure" means an internal process used by the Department or local educational agency to process and resolve complaints.

(g) "Days" means calendar days unless designated otherwise.

(h) "Department" means the California Department of Education.

(i) "Direct state intervention" means the steps taken by the Department to initially investigate complaints or effect compliance.

(j) "Educational institution" means a public or private preschool, elementary, or secondary school or institution, the governing board of a school district, or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

(k) "Facilities that pose an emergency or urgent threat to the health or safety of pupils or staff" means a condition as defined in paragraph (1) of subdivision (c) of section 17592.72 and any other emergency conditions the school district determines appropriate.

(l) "Good repair" shall have the same definition as that found in Education Code section 17002(d).

(m) "Instructional materials" means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted, and may include

textbooks, technology-based materials, other educational materials, and tests.

(n) "Local agency" means a school district governing board or a local public or private agency which receives direct or indirect funding or any other financial assistance from the state to provide any school programs or activities or special education or related services.

(o) "Local educational agency" (LEA) includes any public school district and county office of education or direct-funded charter school.

(p) "Mediation" means a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint.

(q) "Misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(r) "Public agency" means any local agency or state agency.

(s) "State agency" means the State Departments of Mental Health or Health Services or any other state administrative unit that is or may be required to provide special education or related services to children with disabilities pursuant to Government Code section 7570 et seq.

(t) "State mediation agreement" means a written, voluntary agreement approved by the Department, which is developed by the parties to the dispute, which resolves the allegations of the complaint.

(u) "Subject matter competency" means the teacher meets the applicable requirements of Chapter 6, article 1, subchapter 7 of these regulations, commencing with section 6100, for the course being taught.

(v) "Sufficient textbooks or instructional materials" means that each pupil, including English learners, has a textbook or instructional materials, or both, to use in class and to take home but does not require two sets of textbooks or instructional materials for each pupil. Sufficient textbooks or instructional materials does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(w) "Superintendent" means the Superintendent of Public Instruction or his or her designee.

(x) "Teacher vacancy" means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 201, 210.1, 220, 17002(d), 17592.72, 33126(b)(5)(A) and (B) and 60010, Education Code; and Sections 11135 and 11138, Government Code.

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).
3. Change without regulatory effect amending subsection (f) filed 6-19-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 25).

Article 2. Purpose and Scope

§ 4610. Purpose and Scope.

(a) This Chapter applies to the filing, investigation and resolution of a complaint regarding an alleged violation by a local agency of federal or state law or regulations governing educational programs, including allegations of unlawful discrimination. The purpose of this chapter is to establish a uniform system of complaint processing for specified programs or activities that receive state or federal funding.

(b) This chapter applies to the following programs administered by the Department:

(1) Adult Education programs established pursuant to Education Code sections 8500 through 8538 and 52500 through 52616.4;

(2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a);

(3) Migrant Education established pursuant to Education Code sections 54440 through 54445;

(4) Career Technical and Technical Education and Career Technical and Technical Training Programs established pursuant to Education Code sections 52300 through 52480;

(5) Child Care and Development Programs established pursuant to Education Code sections 8200 through 8493;

(6) Child Nutrition Programs established pursuant to Education Code sections 49490 through 49570; and

(7) Special Education Programs established pursuant to Education Code sections 56000 through 56885 and 59000 through 59300.

(c) This chapter also applies to the filing of complaints which allege unlawful discrimination against any protected group as identified under Education Code section 200 and 220 and Government Code section 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity conducted by a local agency, which is funded directly by, or that receives or benefits from any state financial assistance.

(d) Nothing in these regulations shall prevent a local educational agency from using its local uniform complaint procedure to address complaints not listed in this section.

(e) The Department will develop a pamphlet for parents that will explain the Uniform Complaint Procedures in a user friendly manner and post this pamphlet on the Department's Web site.

NOTE: Authority cited: Sections 221.1, 8261, 33031, 49531, 49551, 54445, 52355, 52451, and 56100(a) and (j), Education Code; and Section 11138, Government Code. Reference: Sections 200, 220, 260, and 49556, Education Code; Sections 11135 and 11138, Government Code; and 34 CFR 106.1-106.8 and 299.10-299.11.

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4611. Referring Complaint Issues to Other Appropriate State or Federal Agencies.

The following complaints shall be referred to the specified agencies for appropriate resolution and are not subject to the local and Department complaint procedures set forth in this chapter unless these procedures are made applicable by separate interagency agreements:

(a) Allegations of child abuse shall be referred to the applicable County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency. However, nothing in this section relieves the Department from investigating complaints pursuant to section 4650(a)(8)(C) herein.

(b) Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.

(c) Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH) pursuant to title 22, CCR, section 98410. The complainant shall be notified by first class mail of any DFEH transferral.

(d) Allegations of fraud shall be referred to the responsible Department Division Director who may consult with the Department's Legal and Audits Branch.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 220 and 48987, Education Code; Sections 11135, 11136, 11138 and 12960, Government Code; Section 11166, Penal Code; and 34 CFR 106.1-106.8.

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
2. Amendment of subsection (a) and NOTE filed 4-27-92 as an emergency; operative 4-27-92 (Register 92, No. 18). A Certificate of Compliance must be trans-

mitted to OAL 8–25–92 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 4–27–92 order transmitted to OAL 10–15–92 and filed 10–28–92 (Register 92, No. 44).
4. Change without regulatory effect amending subsection (c), adopting new subsection (d) and relettering subsections filed 12–16–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 51).
5. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 3. Local Educational Agency Compliance

§ 4620. Local Educational Agency Responsibilities.

Each local educational agency shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. Each local educational agency shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, and seek to resolve those complaints in accordance with the procedures set out in this chapter and in accordance with the policies and procedures of the governing board.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 200, 220 and 260, Education Code; Section 11135, Government Code; and 34 CFR 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of article 3 heading and amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4621. District Policies and Procedures.

(a) Each local educational agency shall adopt policies and procedures not inconsistent with sections 4600–4695 of this chapter for the investigation and resolution of complaints. Local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination remain confidential as appropriate. School Districts and County Offices of Education shall submit their policies and procedures to the local governing board for adoption.

(b) Each local educational agency shall include in its policies and procedures the person(s), employee(s) or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring local educational agency compliance. The local educational agency's policies shall ensure that the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.

(c) Except for complaints under sections 4680–4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, the local educational agency may provide a complaint form for persons wishing to file a complaint to fill out and file. A complaint form shall be provided for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments. However, a person is not required to use the complaint form furnished by the local educational agency in order to file a complaint.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 220 and 260, Education Code; Section 11135, Government Code; and 34 CFR 106.8 and 299.10–299.11.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4622. Notice.

Each local educational agency shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties of their local educational agency complaint procedures, including the opportunity to appeal to the Department and the provisions of this chapter.

The notice shall include the identity (identities) of the person(s) responsible for processing complaints. The notice shall also advise the recipient of any civil law remedies that may be available under state or federal discrimination laws, if applicable, and of the appeal pursuant to Education Code section 262.3. This notice shall be in English, and when necessary, in the primary language, pursuant to section 48985 of the Education Code, or mode of communication of the recipient of the notice. Copies of local educational agency complaint procedures shall be available free of charge.

NOTE: Authority cited: Sections 200, 220, 221.1, 262.3 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135 and 11138, Government Code; and 34 CFR 106.8 and 299.11.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section heading, section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 4. Local Complaint Procedures

§ 4630. Filing a Local Complaint; Procedures, Time Lines.

(a) Except for complaints under sections 4680–4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, any individual, public agency or organization may file a written complaint with the district superintendent or his or her designee alleging a matter which, if true, would constitute a violation by that local educational agency of federal or state law or regulation governing a program listed in section 4610(b) of this chapter.

(b) An investigation of alleged unlawful discrimination shall be initiated by filing a complaint not later than six months from the date the alleged discrimination occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination unless the time for filing is extended by the district superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the district superintendent or his or her designee shall be made in writing. The period for filing may be extended by the district superintendent or his or her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The district superintendent shall respond immediately upon a receipt of a request for extension.

(1) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, or by one who believes an individual or any specific class of individuals has been subjected to discrimination prohibited by this part.

(2) The complaint shall be filed with the local educational agency in accordance with the complaint procedures of the local educational agency.

(3) An investigation of a discrimination complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136, and 11138, Government Code; and 34 CFR 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4631. Responsibilities of the Local Educational Agency.

(a) Except for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, which must be processed in accordance with sections 4680–4687, within 60 days from the date of the receipt of the complaint, the local educational agency person responsible for the investigation of the complaints or his or her

designee shall conduct and complete an investigation of the complaint in accordance with the local procedures adopted pursuant to section 4621 and prepare a written Local Educational Agency Decision. This time period may be extended by written agreement of the complainant.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the local agency to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

(e) The local educational agency should issue a Decision (the Decision) based on the evidence. The Decision shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the local educational agency. The Decision should contain:

- (1) the findings of fact based on the evidence gathered,
- (2) conclusion of law,
- (3) disposition of the complaint,
- (4) the rationale for such disposition,
- (5) corrective actions, if any are warranted,
- (6) notice of the complainant's right to appeal the local educational agency Decision to the Department, and
- (7) procedures to be followed for initiating an appeal to the Department.

(f) Nothing in this chapter shall prohibit the parties from utilizing alternative methods to resolve the allegations in the complaint, including, but not limited to, mediation.

(g) Nothing in this chapter shall prohibit a local educational agency from resolving complaints prior to the formal filing of a written complaint.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136, and 11138, Government Code; and 34 CFR 106.8.

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
2. Amendment of section heading, section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 4.5. Appeal of Local Educational Agency Decision

§ 4632. Appeal of Local Educational Agency Decision — Grounds.

(a) Except for complaints under sections 4681 and 4682 regarding instructional materials and teacher vacancies or misassignments, a complainant may appeal a Decision to the Department by filing a written appeal within 15 days of receiving the Decision.

(b) The complainant shall specify the basis for the appeal of the Decision and whether the facts are incorrect and/or the law is misapplied.

(c) The appeal shall be accompanied by:

- (1) a copy of the locally filed complaint; and
- (2) a copy of the Decision.

(d) If the Department determines the appeal raises issues not contained in the local complaint, the Department will refer those new issues back to the local educational agency for resolution as a new complaint under section 4630 or 4631.

(e) If the Department determines that the Decision failed to address an issue raised by the complaint, the Department shall refer the matter to the local educational agency to make the necessary findings and conclusions on any issue not addressed. The local educational agency will address the issue within 20 days from the date of the referral.

NOTE: Authority cited: Sections 200, 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 11135, 11136 and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).
2. Renumbering of former section 4632 to section 4633 and renumbering of former section 4652 to section 4632, including new article 4.5 heading, and amendment of section heading, section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4633. Appeal of Local Educational Agency Decision.

(a) If the Decision is appealed, the Department shall notify the local educational agency of the appeal. Upon notification by the Department that the Decision has been appealed, the local educational agency shall forward the following to the Department:

- (1) A copy of the original complaint;
- (2) A copy of the Decision;
- (3) A summary of the nature and extent of the investigation conducted by the local educational agency, if not covered in the Decision;
- (4) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (5) A report of any action taken to resolve the complaint;
- (6) A copy of the local educational agency complaint procedures; and
- (7) Such other relevant information as the Department may request.

(b) The Department shall not receive evidence from the parties that could have been presented to the local educational agency investigator during the investigation, unless requested by the Department. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the Department.

(c) The Department may contact the parties for further information, if necessary.

(d) The Department shall review the investigation file, the summary of the nature and extent of the investigation conducted by the local educational agency, the complaint procedures, documents and any other evidence received from the local educational agency and determine whether substantial evidence exists:

- (1) That the local educational agency followed its complaint procedures; and
- (2) That the relevant findings of fact in the Decision which are the subject of the appeal are supported by the evidence.

(e) The Department shall review the conclusions of law which are the subject of the appeal and determine whether they are correct.

(f) If the Department determines that the Decision is deficient because it lacks findings of fact and conclusions of law regarding the subject of the appeal, the Department may return the Decision to the local educational agency in order to correct the deficiencies within 20 days of the return.

(g) If the Department finds that the Decision is supported by substantial evidence, and that the legal conclusions are not contrary to law, the appeal shall be denied.

(h) If the Department finds the grounds for the appeal have merit:

(1) The Department may, if there is a lack of substantial evidence or a procedural defect in the investigation, remand the investigation to the local educational agency for further investigation of the allegations which are the subject of the appeal; or

(2) The Department may issue a decision based on the evidence in the investigation file received from the local educational agency; or

(3) If the Department determines that it is in the best interest of the parties, conduct a further investigation of the allegations which are the basis for the appeal and issue a decision following further investigation.

(i) If the Department finds merit in the appeal, the Department's decision on appeal shall contain the following:

(1) A finding that the local educational agency complied or did not comply with its complaint procedures;

(2) The Department's findings of fact and conclusions of law regarding the issue on appeal; and

(3) Where a determination is made that the local educational agency failed to comply with the applicable state or federal law or regulation, remedial orders and/or required actions to address the violation(s).

NOTE: Authority cited: Sections 221.1 and 33031, and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136 and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. Renumbering of former section 4632 to new section 4633, including amendment of section heading, section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 5. State Complaint Procedures

§ 4640. Filing a State Complaint That Has Not First Been Filed at the Local Educational Agency; Time Lines, Notice, Appeal Rights.

Referral to the Local Educational Agency for Local Resolution.

(a) If a complaint is erroneously filed with the Department without first being filed with and investigated by the local educational agency, the Department shall immediately forward the complaint to the local educational agency for processing in accordance with article 4 of this chapter, unless extraordinary circumstances exist necessitating direct state intervention as described at section 4650.

(b) A letter shall be sent by first class mail to the complainant(s) notifying him, her, or them that:

(1) The Department does not have jurisdiction, at this time, over the complaint and that the complaint should have been filed with the local educational agency in the first instance;

(2) That the complaint has been transferred to the local educational agency requesting the local educational agency to process and investigate the allegation in the complaint; and

(3) That the complainant may file an appeal to the Department following the issuance of the Decision, if he or she believes as a matter of fact or law the Decision is incorrect.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136, and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

2. Amendment of section heading, section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 6. Direct State Intervention

§ 4650. Basis of Direct State Intervention.

(a) Except for complaints under sections 4680, 4681, 4682 and 4683 regarding instructional materials, teacher vacancies or misassignments, and condition of a facility, the Department shall directly intervene without waiting for local educational agency investigation if one or more of the following situations exist:

(1) The complaint includes an allegation, and the Department verifies, that a local educational agency failed to comply with the complaint procedures required by this Chapter and its local rules and regulations, including, but not limited to, the failure or refusal of the local educational agency to cooperate with the investigation;

(2) The complaint relates to an agency that is not a local educational agency funded through the Child Development or Child Nutrition Programs;

(3) The complainant requests anonymity because he or she would be in danger of retaliation and would suffer immediate and irreparable harm if he or she filed a complaint with the local educational agency;

(4) The complainant alleges that the local educational agency failed or refused to implement the final decision resulting from its local investigation or local mediation agreement;

(5) The complainant alleges and the Department verifies that through no fault of the complainant, no action has been taken by the local educational agency within 60 calendar days of the date the complaint was filed. Prior to direct intervention, the Department shall attempt to work with the local educational agency to allow it to complete the investigation and issue a Decision.

(6) The complainant alleges and the Department verifies that he or she would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this Chapter, and that filing a complaint with the local educational agency would be futile.

(7) For complaints relating to special education, any one of the following shall be a condition for direct state intervention:

(A) The complainant alleges that a public agency, other than a local educational agency, as specified in Government Code section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities;

(B) The complainant alleges that the local educational agency or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;

(C) The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.

(D) The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).

(E) The complaint involves a violation of federal law governing special education, 20 U.S.C. section 1400 et seq., or its implementing regulations.

(b) The complaint shall identify the basis, as described in subdivision (a) above, for filing the complaint directly to the Department. The complainant must present the Department with clear and verifiable evidence that supports the basis for the direct filing, except as in subdivision (a)(7).

NOTE: Authority cited: Section 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136, and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

2. Amendment of section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4651. Notification.

When the Department receives a complaint requesting direct State intervention, the Department shall determine whether the complaint meets one or more of the criterion specified in section 4650 for direct State intervention and shall immediately notify the complainant by first class mail of the determination to accept the complaint without a local educational agency investigation and/or Decision. If the complaint is not accepted, it shall be referred to the local educational agency for local investigation, or referred to another agency pursuant to section 4611.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136 and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8-26-91; operative 9-25-91 (Register 92, No. 3).

2. Amendment of section heading, section and NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4652. Appealing Local Agency Decisions.

NOTE: Authority cited: Sections 232 and 33031, Education Code; Section 11138, Government Code. Reference: Sections 11135, 11136, and 11138, Government Code; 34 CFR 76.780-76.783 and 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Renumbering of former section 4652 to section 4632 filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 7. State Investigation Procedures

§ 4660. Department Resolution Procedures.

(a) When the Department determines that direct State intervention is warranted pursuant to any provision of section 4650, the following procedures shall be used to resolve the issues of the complaint:

(1) The Department shall consider alternative methods to resolve the allegations in the complaint.

(2) If both parties request mediation, the Department shall offer to mediate the dispute which may lead to a state mediation agreement.

(3) The Department shall conduct an investigation, including an on-site investigation if necessary, into the allegations in the complaint unless a settlement agreement has been reached between the parties that disposes of all the issues in the complaint.

NOTE: Authority cited: Sections 200, 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 11135, 11136 and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of article 7 heading, section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4661. Mediation Procedures; State Mediation Agreements; Notice.

NOTE: Authority cited: Sections 232 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 11135, 11136, and 11138, Government Code; and 34 CFR 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Repealer of section and amendment of NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4662. Investigation Timeline.

(a) Each party in the dispute shall be sent written notification by the Department of the name(s) of the investigator(s) and the investigation date(s), if known. The notice shall explain the investigation process.

(b) An investigation will be completed within 60 days after receiving a request for direct intervention or an appeal request, unless the parties have agreed to extend the time lines. The Department may grant extensions for the investigation if exceptional circumstances exist that constitute good cause with respect to the particular complaint, and provided that the complainant is informed of the extension and the reasons therefore and provided that the facts supporting the extension are documented and maintained in the complaint file.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136, and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section heading, section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4663. Department Investigation Procedures.

(a) The investigator(s) shall request all documentation and other evidence regarding the allegations in the complaint.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to

otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the local educational agency to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136 and 11138, Government Code; 34 CFR 76.1 and 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4664. Department Investigation Report.

(a) An investigation report shall be issued. The investigation report shall include the following:

- (1) A summary of the allegations in the complaint;
- (2) A description of the general procedures of the investigation;
- (3) Citations of applicable law and regulations;
- (4) Department findings of facts;
- (5) Department conclusions;
- (6) LEA required actions, if applicable;
- (7) LEA recommended specific actions, if applicable;
- (8) Time line for corrective actions, if applicable; and
- (9) Notice that any party may request reconsideration of the Department's report from the Superintendent of Public Instruction within 35 days of the receipt of the report.

(10) For those programs governed by Part 76 of Title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.

(b) An investigation report shall be mailed to the parties within 60 days from the conclusion of the investigation.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 221, Education Code; Sections 11135, 11136 and 11138, Government Code; 34 CFR 106.8; and 34 CFR 299.10(a)(2).

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4665. Discretionary Reconsideration of Department Investigation Report.

(a) Within 35 days of receipt of the Department investigation report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s) or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.

(b) Within 35 days of the receipt of the request for reconsideration, the Superintendent or his or her designee may respond in writing to the parties modifying the specific finding(s), conclusion(s), or corrective action(s) for which reconsideration is requested, or denying the request for reconsideration. Pending the Superintendent's reconsideration, the Department report remains in effect and enforceable.

(c) Appeals by private agencies regarding Child Care Food Programs shall be made to the State Office of Administrative Hearings in accordance with applicable laws and regulations.

(d) Appeals from investigations of complaints involving Child Development contractors, whether public or private, shall be made to the Superintendent of Public Instruction as provided in subsection (a) except as otherwise provided in division 19 of title 5 of the Code of California Regulations.

(e) For those programs governed by part 76 of title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.

NOTE: Authority cited: Sections 200, 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 220, Education Code; Sections 11135, 11136 and 11138, Government Code; 34 CFR 76.1 and 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section heading, section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 8. Enforcement—State Procedures to Effect Compliance

§ 4670. Enforcement.

(a) Upon determination that a local agency violated the provisions of this chapter, the Department shall notify the local agency pursuant to section 4664(b) that it must take corrective action to come into compliance. If corrective action is not taken, the Department may use any means authorized by law to effect compliance, including, but not limited to:

(1) The withholding of all or part of the local agency's relevant state or federal fiscal support in accordance with state or federal statute or regulation;

(2) Probationary eligibility for future state or federal support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state or federal funding to a local agency under this chapter shall be made until the Department has determined that compliance cannot be secured by other means.

(c) If the Department determines that a Child Development Contractor's Agreement shall be terminated, the procedures set forth in sections 8257(d) or 8400 et seq. of the Education Code and the regulations promulgated pursuant thereto (chapter 19 of title 5, CCR, commencing with section 17906), shall be followed.

(d) If the Department determines that a local educational agency has failed to comply with any provision of sections 49550 through 49554 of the Education Code, the Department shall certify such noncompliance to the Attorney General for investigation pursuant to section 49556 of the Education Code.

NOTE: Authority cited: Sections 200, 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 49556, Education Code; Sections 11135, 11136 and 11138, Government Code; and 34 CFR 76.783 and 106.8.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Amendment of section and NOTE filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4671. Federal Review Rights.

NOTE: Authority cited: Sections 232 and 33031, Education Code; Section 11138, Government Code. Reference: 34 CFR 76.780–76.783.

HISTORY

1. New section filed 8–26–91; operative 9–25–91 (Register 92, No. 3).
2. Repealer filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Article 9. Williams Complaints

§ 4680. Complaints Regarding Instructional Materials, Teacher Vacancy or Misassignment, and School Facilities.

(a) Complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancy or misassignment shall be filed with the principal of the school, or his or her designee, in which the complaint arises. A complaint about problems beyond the authority of the school principal

shall be forwarded in a timely manner, but not to exceed 10 working days, to the appropriate school district official for resolution.

(b) Complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancy or misassignment may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a response is requested. If a response is requested, the response shall be made to the mailing address of the complainant indicated on the complaint.

(c) The school shall have a complaint form available for such complaints. The complaint form shall identify the place for filing the complaint and include a space to indicate whether a response is requested. However, the complainant need not use a complaint form.

(d) All complaints and responses are public records.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New article 9 (sections 4680–4687) and section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4681. Contents of Complaints Regarding Instructional Materials.

(a) A complaint related to instructional materials may allege as follows:

(1) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state adopted or district adopted textbooks or other required instructional materials to use in class.

(2) A pupil does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each pupil.

(3) Textbooks or instructional materials are in poor or unusable condition, having missing pages, or are unreadable due to damage.

(4) A pupil was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

(b) A complaint related to instructional materials shall identify:

(1) the school;

(2) the course or grade level in which the deficiency(ies) in instructional materials exist;

(3) the teacher of the course or grade level; and

(4) the specific nature of the deficiency or deficiencies as specified in subsection (a).

(c) A complaint may include as much text to explain the deficiency or deficiencies in instructional materials as complainant feels necessary. A complaint may contain more than one allegation of deficiency or deficiencies in the instructional material.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4682. Contents of Complaints Regarding Teacher Vacancy or Misassignment.

(a) A complaint related to teacher vacancy or misassignment may allege as follows:

(1) A semester begins and a teacher vacancy exists (a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester).

(2) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learner pupils in the class. This subparagraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(3) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

(b) A complaint regarding a teacher vacancy or misassignment shall identify:

(1) the course or grade level in which the teacher vacancy or misassignment exists;

(2) the specific nature of the vacancy or misassignment as specified in subdivision (a); and

(3) if it is a misassignment, the name of the teacher who is misassigned.

(c) A complaint may include as much text to explain the teacher vacancy or misassignment as complainant feels necessary. A complaint may contain more than one allegation of teacher vacancy or misassignment.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4683. Contents of Complaints Regarding the Condition of a Facility.

(a) A complaint related to the conditions of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff shall identify the specific school in which the condition exists. The complaint shall specify:

(1) the location of the facility;

(2) describe emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff; and

(3) how the condition poses a threat to the health or safety of pupils or staff.

(b) A complainant may include as much text to explain the emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, as complainant feels necessary. A complaint may contain more than one allegation of emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4684. Notice.

(a) In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the school district notifying parents and guardians of the following:

(1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.

(2) School facilities must be clean, safe, and maintained in good repair.

(3) There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners if present.

(4) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Web site of the Department shall satisfy this requirement.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4685. Investigation.

The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within

his or her authority. The principal, or, where applicable, district superintendent or his or her designee shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The principal, or where applicable, district superintendent or his or her designee, shall report to the complainant the resolution of the complaint within 45 working days of the initial filing, if complainant identifies himself or herself and requested a response. If the principal makes this report, the principal shall also report the same information in the same timeframe to the district superintendent or his or her designee.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4686. Responsibilities of Governing Board.

(a) A complainant who is not satisfied with the resolution of the principal or the district superintendent or his or her designee, has the right to describe the complaint to the governing board of the school district at a regularly scheduled meeting of the governing board.

(b) A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints.

(c) The complaints and written responses shall be available as public records.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4687. Appeal of Facilities Complaint to Superintendent.

(a) A complainant who is not satisfied with the resolution proffered by the principal, or the district superintendent or his or her designee, involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of section 17592.72, has the right to file an appeal to the Superintendent of Public Instruction within 15 days of receiving the report.

(b) Complainant shall comply with the appeal requirements of section 4632.

(c) The Superintendent of Public Instruction or his or her designee shall comply with the requirements of section 4633.

(d) The Superintendent of Public Instruction shall provide a written report to the State Board of Education describing the basis for the complaint, the school district's response to the complaint and its remedy or proposed remedy and, as appropriate, a proposed remedy for the issue described in the complaint, if different from the school district's remedy.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 17592.72 and 35186, Education Code.

HISTORY

1. New section filed 12–29–2005; operative 12–29–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

Chapter 5.2. Improvement of Elementary and Secondary Education

NOTE: Authority cited: Section 52039, Education Code. Reference: Sections 52013 and 52039(b)(2), Education Code.

HISTORY

1. Expired by own terms 12–31–78 (Register 80, No. 25). For prior history, see Register 77, No. 47.

Chapter 5.3. Nondiscrimination and Educational Equity

Subchapter 1. Nondiscrimination in Elementary and Secondary Educational Programs Receiving State or Federal Financial Assistance

Article 1. General Provisions

§ 4900. Purpose.

(a) The purpose of this Chapter is to ensure compliance with federal and state nondiscrimination laws in any program or activity conducted by an educational institution. Therefore, no person in the State of California shall be subjected to discrimination, or any other form of illegal bias, including harassment. No person shall be excluded from participation in or denied the benefits of any local agency's program or activity on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in any program or activity conducted by an "educational institution" or any other "local agency," defined in Article 2 (commencing with Section 4910) of this Chapter, which is funded directly by, or that receives or benefits from any state financial assistance.

(b) All educational programs and activities under the jurisdiction of the State Board of Education receiving or benefiting from state or federal financial assistance shall be available to all qualified persons without regard to sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability.

(c) It is the intent of the State Board of Education that the Superintendent of Public Instruction assist school districts and county offices of education to recognize and eliminate unlawful discrimination that may exist within their programs or activities and to meet the requirements of this Chapter. The Superintendent shall meet this responsibility through technical assistance and ensuring compliance pursuant to Chapter 5.1 (commencing with section 4600) of this Title relating to standard complaint procedures.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 201, 220, 221.1 and 230, Education Code; Sections 11135–11139.5, Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106.1, Title 34, Code of Federal Regulations.

HISTORY

1. New chapter 5.3 (sections 4900–4962, nonconsecutive) filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of chapter 5.3 heading, subchapter 1 heading, section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4901. Academic Requirements.

Nothing in this Chapter shall be interpreted to prohibit bona fide academic requirements for participation in a specific educational institution's program, course or activity.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 35160.5 and 49067, Education Code; Sections 11135–11139.5, Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4902. State and Local Agency Responsibilities and Obligations.

Except as otherwise stated in this Chapter, the Superintendent of Public Instruction is responsible for providing leadership to local agencies to ensure that the requirements of the following nondiscrimination laws and their related regulations are met in educational programs that receive or benefit from state or federal financial assistance and are under the jurisdiction of the State Board of Education:

- (a) Education Code sections 200 through 253.
- (b) Government Code sections 11135 through 11139.
- (c) The Civil Rights Act of 1964 at Title 42, U.S. Code Sections 2000a et seq.
- (d) Title IX of the Education Amendments of 1972 at Section 1681, Title 20, U.S. Code.
- (e) Section 504 of the Rehabilitation Act of 1973 at Section 794(a), Title 29, U.S. Code.
- (f) Federal Equal Access at Section 4071 et seq., Title 20, U.S. Code.
- (g) Americans with Disabilities Act of 1990 at Sections 12131 et seq., Title 42, U.S. Code.
- (h) Individuals with Disabilities Education Act (Section 1400 et seq., Title 20, U.S. Code).
- (i) Equal Educational Opportunities Act (Section 1701 et seq., Title 20, U.S. Code).

(j) Any and all other federal and state laws and regulations involving assurances that local agencies will not discriminate on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 201 and 33111, Education Code; Sections 11135–11139.5, Government Code; Section 1681, Title 20, U.S. Code; and Section 2000d, Title 42, U.S. Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of section heading, section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

Article 2. Definitions

§ 4910. General Definitions.

The terms used in this Chapter shall be construed with reference to the laws and regulations existing on the date of the enactment of this section. As used in this Chapter, the term:

- (a) "Activity" or "program and activity" means the same as the definition set out below for the word "program."
- (b) "Ancestry" means the national or cultural origin of a line of descent.
- (c) "Board" means the California State Board of Education.
- (d) "Club" means a group of students which meets on school property and which is student initiated, student operated and not sponsored by the educational institution.
- (e) "Color" includes the concept "race" as it is used in Title IV and Title VI of the Federal Civil Rights Act of 1964, respectively commencing at 42 USC 2000c and 20 USC 2000d.
- (f) "Department" means the California Department of Education.
- (g) "Educational institution" means any public or private preschool, elementary, or secondary school or institution operated by the local agency, or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools, consistent with the definition found in Education Code section 210.1.
- (h) "Ethnic group identification" includes the concept of "national origin" as it is used in Title IV and Title VI of the Federal Civil Rights Act of 1964, respectively commencing at 42 USC 2000c and 20 USC 2000d.
- (i) "Equal opportunity" and "equivalent opportunity" are used synonymously and mean equal or equal in effect.
- (j) "Extracurricular activity" means an activity that is sponsored by the local agency or an organization sanctioned by the local agency. The term

"extracurricular activity" shall not include any program that is part of the regular curriculum or that is covered by Article 3 (commencing with Section 4920).

(k) "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(l) "Harassment" means conduct based upon protected status that is severe or pervasive, which unreasonably disrupts an individual's educational or work environment or that creates a hostile educational or work environment.

(m) "Individual with a disability" means a person who has a physical or mental impairment that substantially limits one or more major life activities; a record of such an impairment; or is regarded as having such an impairment.

(n) "Local Agency (LA)" means a school district governing board or county office of education or a local public or private agency which receives direct or indirect funding or any other financial assistance from the state or federal government to provide any school program or activity.

(o) "Mental disability" means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(p) "National origin" means the country of a person's birth.

(q) "Person" includes but is not limited to employees, temporary employees, contract employees, applicants for employment, agents and representatives of the local agency, students, applicants for admission and volunteers.

(r) "Physical disability" means any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

(s) "'Program' or 'program activity'" is defined to include the definition of "program and activity" as set forth at Health and Welfare regulation 22 CCR 98010 and to include extra curricular, research, occupational programs, honors, students services and other activities as well as include the operations of an "educational institution" as defined at Education Code section 210.1. All specified institutions are meant to entail the operations of:

(1)(A) a department, agency, special purpose district, or other instrumentality or any educational institution; or

(B) the entity of such local agency that distributes such assistance and each such department or agency to which the assistance is extended; or

(2)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which state or federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(3) any other entity which is established by two or more educational institutions or the entities described in paragraph (1) or (2); any part of which is extended state or federal financial assistance, except that such

term does not include any operation of an entity which is controlled by a religious organization if the application of this Chapter to such operation would not be consistent with the religious tenets of such organization.

(4) Small providers are not required by this subsection to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility to the physically disabled, if alternative means of providing the services are available.

(t) "Race" means one of the anthropological/racial ethnic groups, including but not limited to: Asian, Black, American Indian, Hispanic, Pacific Islander, White, or Filipino.

(u) "Religion" means one's spiritual beliefs.

(v) "Sex" means the biological condition or quality of being a female or male human being.

(w) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality.

(x) "Superintendent" means the Superintendent of Public Instruction or his or her designee.

(y) "Title IX Coordinator" means the person(s) designated by the local agency to comply with and carry out the local agency's responsibilities under Title IX of the Education Amendments of 1972.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 51.7(b), Civil Code; Sections 200, 201(g), 210, 210.1, 212.5, 220, 233(e) and 260, Education Code; Sections 11135 and 11138, Government Code; Section 422.55 and 422.56, Penal Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; Section 106, Title 34 Code of Federal Regulations; and Sections 98210, 98220, 98230, 98250 and 98343, Title 22, California Code of Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).
3. Amendment of subsection (k) and amendment of NOTE filed 12-29-2005; operative 12-29-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 52).

§ 4911. Government Code Definitions, Incorporation by Reference.

Those definitions of activities prohibited and persons protected from discrimination set forth in Chapters 2 and 3 of Division 8 of Title 22 of the California Code of Regulations (commencing with Section 98100) are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 260, Education Code; and Sections 11135 and 11138, Government Code.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4912. Educational Equity Act Definitions, Incorporation by Reference.

Those definitions set forth in Articles 2 and 3 of Chapter 2 of Part 1 of Title 1 of the California Education Code (commencing with Section 210) are incorporated into and made applicable to this Chapter as if fully set forth here, specifically section 210.1 – "Educational institution," section 211 – "Governing board," section 212 – "Sex," section 212.5 – "Sexual harassment," section 213 – "State financial assistance," and section 214 – "State financial aid."

[The next page is 93.]

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 260, Education Code; and Sections 11135 and 11138, Government Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of section heading, section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4913. Prohibited Activities, Incorporation by Reference.

In addition to acts or omissions prohibited by other nondiscrimination laws or regulations, except as provided by Education Code section 220.5, the acts specifically proscribed by Chapter 2 (commencing with Section 200) of Part 1 of Title 1 of the California Education Code are incorporated into and made applicable to this Chapter as if fully set forth here.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220 and 230, Education Code; and Sections 11135 and 11138, Government Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4914. Prohibited Discrimination on Parental, Family, or Marital Status.

On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions is prohibited.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code. Reference: Section 230(e), Education Code.

HISTORY

1. New section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

Article 2.5. Sexual Harassment

§ 4915. General Prohibitions.

A person in the educational environment of a local agency shall not sexually harass another person in the work or educational environment of the local agency. Sexual harassment is a form of sex discrimination and, as such, may result in disciplinary or other action taken by the local agency.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 212.5, Education Code; Sections 11135 and 12940(h), Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New article 2.5 (sections 4915–4917) and section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4916. Sexual Harassment Definitions.

(a) “Sexual harassment” means any unwelcome sexual advance, unwelcome requests for sexual favors, or other unwelcome verbal, visual, or physical conduct of a sexual nature made by someone from or in the educational or work setting, whether it occurs between individuals of the same sex or individuals of opposite sexes, under any of the following conditions:

(1) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s academic status, employment, or progress.

(2) Submission to, or rejection of, the conduct by the individual is used as the basis of academic or employment decisions affecting the individual.

(3) The conduct has the purpose or effect of having a negative impact upon the individual’s academic performance, work, or progress or has the purpose or effect of creating an intimidating, hostile, or offensive educational or working environment. The conduct is sufficiently severe, persistent, pervasive or objectively offensive, so as to create a hostile or abusive educational or working environment or to limit the individual’s ability to participate in or benefit from an education program or activity.

(4) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the local agency.

(b) “Verbal sexual harassment” includes, but is not limited to, unwelcome epithets, comments, or slurs of a sexual nature.

(c) “Physical sexual harassment” includes, but is not limited to, assault, impeding or blocking movement, or any physical interference with work or school activities or movement when directed at an individual on the basis of sex.

(d) “Visual sexual harassment” includes, but is not limited to, derogatory posters, cartoons, drawings, obscene gestures, or computer-generated images of a sexual nature.

(e) “Educational environment” includes, but is not limited to, the following:

(1) The campus or school grounds of the local agency.

(2) Properties controlled or owned by the local agency.

(3) Off-campus, if such activity is sponsored by the local agency, or is conducted by organizations sponsored by or under the jurisdiction of the local agency.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 212.5, Education Code; Section 11135, Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4917. Notification Requirements.

Local agencies are required to notify students, employees, and parents of their written policy prohibiting sexual harassment pursuant to Education Code sections 231.5 and 48980(h), and in accordance with Education Code section 48985. These policies shall include information as to where to obtain specific procedures for reporting charges of sexual harassment and available remedies.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 231.5, 262.3, 48980 and 48985, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106.9, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

Article 3. Nondiscrimination in Intramural, Interscholastic, or Club Athletics

§ 4920. General Prohibition.

No person shall on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color or mental or physical disability be excluded from participation in, be denied the benefits of, be denied equivalent opportunity in, or otherwise discriminated against in interscholastic, intramural, or club athletics.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 230 and 35179, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of article 3 heading, section and NOTE filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4921. Separate Teams.

(a) Local agencies may provide single sex teams where selection for teams is based on competitive skills.

(b) When a local agency provides only one team in a particular sport for members of one sex but provides no team in the same sport for members of the other sex, and athletic opportunities in the total program for that sex have previously been limited, members of the excluded sex must be allowed to try out and compete with the local agency team. The same standards for eligibility shall be applied to every student trying out for a team, regardless of sex or sexual orientation or other protected group status.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200, 220, 221.7, 230 and 31579, Education Code; Section 1681, Title 20, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of subsection (b), repealer of subsection (c) and amendment of NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4922. Equivalent Opportunity.

(a) For purposes of section 230(c) of the Education Code, in determining whether equivalent opportunities are available to both sexes in athletic programs, the factors a local agency shall consider, include, but are not limited to:

- (1) Whether the selection of sports and levels of competition offered effectively accommodate the interests and abilities of both sexes;
- (2) The provision and maintenance of equipment and supplies;
- (3) Scheduling of games and practice times; selection of the season for a sport; location of the games and practices;
- (4) Travel and per diem allowances;
- (5) Opportunities to receive coaching and academic tutoring;
- (6) Assignment and compensation of coaches and tutors;
- (7) Provision of locker rooms, practice and competitive facilities;
- (8) Provision of medical and training facilities and services;
- (9) Provision of housing and dining facilities and services;
- (10) Publicity.

(b) Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams, if a recipient operates or sponsors separate teams, shall not constitute noncompliance with this section. However, the failure to provide necessary funds for teams for one sex in assessing equivalent opportunity for members of each sex shall be considered.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 221.7, 230 and 35179, Education Code; Section 1681, Title 20, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

Article 3.5. Nondiscrimination in Extracurricular and Club Activities

§ 4925. General Prohibition.

A local agency shall not provide or otherwise carry out any of its extracurricular programs or activities separately, or require or refuse participation therein by any of its students on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability. Nothing herein shall be construed to prohibit the use of prerequisites to participation in certain extracurricular activities where the prerequisites have been demonstrated to be essential to the success in the particular extracurricular activities.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220 and 230, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New article 3.5 (sections 4925-4927) and section filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4926. General Provisions.

Membership in student clubs must be open to all students regardless of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220, 230 and 35160.5, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4927. Equal Access.

Student clubs shall have equal access to facilities of the educational institution to conduct a meeting and a fair opportunity to meet within the limited open forum of the educational institution, if the educational institution has a limited open forum.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220, 230 and 35160.5, Education Code; Section 1681, Title 20, U.S. Code; Sections 2000d and 4071, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

Article 4. Counseling

§ 4930. General Provisions.

(a) No local agency or educational institution or counselor shall discriminate against any person on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability in the counseling or guidance of pupils.

(b) Nothing in this section shall be construed as prohibiting a local agency from encouraging members of one sex to enter courses, programs, activities or occupations which are traditionally entered by the other sex.

(c) Counseling includes, but is not limited to, academic, vocational, career, social or psychological counseling which is conducted or sponsored by, through, or at an educational institution whether in an informal or formal program, workshop or other activity, or whether conducted or sponsored on a routine or sporadic basis.

(d) Counseling includes, but is not limited to, any person, group, or sub-group, regardless of title or job description, who engages in counseling of any pupil.

NOTE: Authority cited: Section 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220 and 230, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section heading, section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4931. Use of Appraisal and Counseling Materials.

(a) An educational institution which uses testing or other materials for appraising or counseling pupils shall not use different materials for pupils on the basis of their sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability. The use of materials that permit or require the impermissible differential treatment of pupils on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability is not permitted unless such different materials cover the same occupations and interest areas and the use of such different materials is essential to the elimination of bias and discrimination.

(b) An educational institution may use different materials if they are shown to encourage members of any protected categories identified in subdivision (a) to enter courses, programs, activities, or occupations which are not traditionally entered by the members of the protected categories identified in subdivision (a).

(c) Where the use of a counseling or evaluation instrument results in disproportionate numbers of members of one of the protected categories identified in subdivision (a) above in any particular course, program, activity or occupation, the educational institution shall take such action as is necessary to ensure that such disproportionate numbers are not the result of discrimination in the instrument or its application.

(d) Where an educational institution finds that a particular course contains a substantially disproportionate number of individuals of one

group, the educational institution shall assure that such disproportion is not the result of discrimination in counseling policy or practice, or appraisal materials or discrimination by counselors, or any other employee of the educational institution.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 200 and 230, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

Article 5. Course Access

§ 4940. General Provisions.

(a) A local agency and its educational institutions shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability or require or refuse participation therein by any of its students on such basis, including but not limited to, agriculture, health, physical education, industrial technology, business, career, vocational and emerging technical educational programs, home economics, work experience programs, occupational training programs, research opportunities, visual and performing arts, and adult education courses.

(b) Portions of classes which deal with human sexuality may be conducted in separate sessions for males and females.

(c) Local agencies and their educational institutions may make requirements based on vocal range or quality which may result in a chorus or choruses of one, or predominantly one, sex.

(d) A local agency and its educational institutions shall not permit any course or activity labeling and scheduling which results in the separation of students on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability. In educational institutions where students have the opportunity to select a specific activity for a physical education course, the course title and description shall be gender neutral.

(e) While instruction in all physical education classes is coeducational, nothing in this section shall prohibit the grouping of students during physical education activities by ability when assessed by objective standards of individual performance without regard to sex and all students are involved in the same physical activity or conceptual learning experience at the same time.

(f) Recruitment. An educational institution may choose to undertake affirmative recruitment efforts to overcome the effect of conditions which resulted in limited participation in certain courses by a particular group of students including but not limited to math, science, emerging technologies, occupational training, and career vocational and technical educational program courses.

(g) Prerequisites. Nothing herein shall be construed to prohibit the use of prerequisites that have been demonstrated to be essential to success in a given program or course. If a prerequisite is not essential to success in a given course or program, it shall be abolished as a prerequisite.

(h) Required Courses. In determining required courses for any student, such determination shall be made without regard to sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, except as otherwise provided in these regulations.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 220 and 230, Education Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section heading, section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

Article 6. Marital and Parental Status

§ 4950. Marital and Parental Status of Students.

An educational institution shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(a) An educational institution shall not exclude or deny any student from any educational program or activity including class or extracurricular activity solely on the basis of a student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom.

(b) An educational institution may require a student to obtain the certification of a physician or nurse practitioner that the student is physically and emotionally able to continue participation in the regular program or activity.

(c) Voluntary Alternative Program. Pregnant minors and minor parents shall not be required to participate in pregnant minor programs or alternative educational programs. Such minors who do voluntarily participate in such alternative programs shall be given educational programs, activities and courses equal to those they would have been in if participating in the regular program.

(d) Any educational institution shall treat pregnancy, child birth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disabling condition.

NOTE: Authority cited: Sections 232 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 230, Education Code; and 34 CFR 106.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).

Article 7. Local Agency Compliance

§ 4960. Local Agency Responsibilities.

(a) Each school district and county office of education shall have primary responsibility to ensure that its programs and activities are available to all persons without regard to sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability. Each local agency shall investigate complaints of unlawful discrimination in its programs or activities.

(b) Each governing board shall have the ongoing responsibility to publicize the provisions of this Chapter to students, parents, employees, agents of the governing board and the general public. This policy shall be posted in all schools and offices including staff lounges and student government meeting rooms.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 260, Education Code; Section 11135, Government Code; Section 106, Title 34, Code of Federal Regulations; and Section 98340, Title 22, California Code of Regulations.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).
2. Amendment of section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 4961. Responsible District Officer.

Each local agency shall identify a single person as the responsible local agency officer for ensuring district or office compliance with this chapter. Each announcement shall include the name, office address and office telephone number of the responsible local agency officer.

NOTE: Authority cited: Section 11138, Government Code; and Sections 71020 and 71025, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. New section filed 12-16-92; operative 1-15-93 (Register 92, No. 51).

§ 4962. Compliance Procedures.

Compliance with the provisions of this division shall be carried out in accordance with the complaint procedures specified in sections 4601 through 4671 of this Title and Government Code sections 11136 and 11137.

NOTE: Authority cited: Sections 232 and 33031, Education Code; and Section 11138, Government Code. Reference: Sections 11135, 11136 and 11137, Government Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

Article 8. Complaint Process Safeguards

§ 4963. Prohibitions.

(a) No person from or in the educational or work environment of a local agency shall retaliate against a complainant, witness, or other person who supports or participates in a sexual harassment investigation.

(b) Any attempt to penalize anyone from or in the educational or employment environment for initiating a complaint through any form of retaliation shall be treated as a separate allegation of discrimination.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 212.5, Education Code; Sections 11135 and 12940(h), Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New article 8 (sections 4963–4965) and section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4964. Confidentiality.

All complaints or allegations of discrimination or sexual harassment will be kept confidential during any informal and/or formal complaint procedures except when disclosure is necessary during the course of an investigation, in order to take subsequent remedial action and to conduct ongoing monitoring.

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 212.5, Education Code; Sections 11135 and 12940(h), Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

§ 4965. Disciplinary Action.

Harassment on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability is a form of discrimination, and as such, may result in disciplinary or other action taken by the local agency. In the case of an employee, such disciplinary action may include termination. For students in Grades K–12, the disciplinary consequences shall depend on the ages of the students and the factual circumstances of the incident(s).

NOTE: Authority cited: Sections 221.1 and 33031, Education Code; and Section 11138, Government Code. Reference: Section 212.5, Education Code; Sections 11135 and 12940(h), Government Code; Section 1681, Title 20, U.S. Code; Section 2000d, Title 42, U.S. Code; and Section 106, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 6–13–2001; operative 7–13–2001 (Register 2001, No. 24).

Chapter 6. Certified Personnel

Subchapter 1. General Provisions

Article 1. Code of Ethics of the Teaching Profession

HISTORY

1. Amendment and renumbering of Article 1 (Sections 5480–5485) to Article 7 (Sections 80130–80132) of Chapter 1 of Part VIII, filed 12–16–77; effective thirtieth day thereafter (Register 77, No. 51). For prior history, see Register 77, No. 21; and Register 70, No. 17.

Article 2. Employment and Dismissal

§ 5500. Statement a Condition to Employment.

The governing board shall not employ a person in a position requiring certification qualifications unless the person first files with the governing board his statement in writing that he has not entered into a valid contract of employment with the governing board of another school district which will in any way conflict with his employment.

NOTE: Authority cited for Article 2: Sections 23919, 33031, 44839 and 44843, Education Code.

HISTORY

1. New Chapter 1 (§§ 5500–5504) filed 9–23–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Article 1 (§§ 5500–5504) renumbering to Article 2 filed 4–22–70; effective thirtieth day thereafter (Register 70, No. 17).
3. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 5501. Filing of Notice of Employment.

The notice of employment required by Education Code Section 44843 shall identify the school district, shall be signed by the authorized official or officials of the school district, shall be in the number of copies specified by the county superintendent, and shall contain at least the following data for each employee:

- (a) Name.
- (b) Position filled.
- (c) Classification (substitute, temporary, probationary, permanent).
- (d) Effective date and terminal date of employment.
- (e) Rate of salary (per school month, calendar month, day, hour).
- (f) Major accounting class, as shown in Part I of the California School Accounting Manual, to which the salary will be charged.

The notice may contain such additional data as the governing board and the county superintendent agree upon.

HISTORY

1. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 5502. Filing of Notice of Physical Examination for Employment of Retired Persons.

The governing board shall on or before employing a retired person for a position described in Education Code Section 44839.5 require evidence that he or she has passed the physical examination required by Education Code Section 44839.5.

NOTE: Authority cited: Section 44839.5, Education Code. Reference: Section 44839.5, Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 10–16–80; effective thirtieth day thereafter (Register 80, No. 42).

§ 5503. Physical Examination for Employment of Retired Persons.

(a) The physical examination prescribed by the State Board pursuant to Education Code Section 44839.5 is an examination by a physician and surgeon licensed to practice in California that will enable the examining physician and surgeon to ascertain whether or not the person is free from infectious or contagious disease, including an examination for tuberculosis made in the manner described in Education Code Section 49406.

The physician's certificate, showing that the employee was examined and that the person was found free from active tuberculosis and from any other contagious or infectious disease, shall be filed with the county superintendent of schools and a duplicate or photographic copy shall be filed with the employing school district. A notice from a public health agency or unit of the Tuberculosis Association that indicates freedom from active tuberculosis may be substituted for that part of the physicians certificate relating to tuberculosis. The examination shall have been made within six months of filing of the completed certificate with both the county superintendent of schools and employing school district.

(b) The certificate shall be in substantially the following form:

**CERTIFICATION OF FREEDOM FROM CONTAGIOUS OR
INFECTIOUS DISEASE**

I hereby certify that:

(1) I am licensed to practice as a physician and surgeon in California.

(2) On the date shown herein below I examined _____, who gave _____ as his (her) date of birth and _____ as his (her) address. On that date I found him (her) to be free from any contagious or infectious disease including freedom from active tuberculosis. _____, 19____
Date

Physician and Surgeon

The following authorization signed by the person examined shall be set forth below the certificate:

AUTHORIZATION

Dr. _____:

You are hereby authorized to give to the State Board of Education, any county superintendent of schools, the governing board of a school district to which the undersigned has applied for employment, and representatives of any of them, any and all information you may have regarding my physical or mental condition, including but not being limited to the history, findings, diagnosis, treatment given, present condition, and prognosis.

_____, 19____

Date

Signature of Person Examined

NOTE: Authority cited: Section 44839.5, Education Code. Reference: Section 44839.5, Education Code.

HISTORY

1. Amendment of subsection (a) and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 10-16-80; effective thirtieth day thereafter (Register 80, No. 42).

§ 5504. Medical Certification Procedures.

(a) The governing board of each school district and the county superintendent of schools office shall provide a pre-employment medical examination form and related information as prescribed in this section to persons being employed for the first time in a California school district or county office in a position requiring certification requirements in accordance with Section 44839 of the Education Code.

(b) The governing board or office of the county superintendent of schools shall also develop a brief statement of functions involved in the position for which the applicant will be employed and attach it to the medical certification form for the guidance of the physician. Functions should be described in terms of activities which may be performed such as: teaching physical education; being able to readily move about the classroom and playground; climbing flights of stairs or operating mechanical equipment.

(c) The governing board of each school district and the county superintendent of schools office shall use the following medical certificate or a similar certificate developed locally and approved by the State Department of Education:

**CERTIFICATE OF MEDICAL EXAMINATION OF
APPLICANTS FOR FIRST EMPLOYMENT IN A
CALIFORNIA SCHOOL DISTRICT OR
COUNTY SUPERINTENDENT OF SCHOOLS OFFICE**

School District; County Office

Name

Name:	Last	First	Middle
Address:	Street	City	Zip Code

To the Physician:

The medical examination required of a person employed in a certificated position for the first time in a California School District or County Superintendent of Schools Office to determine freedom from any disabling disease unfitting the person to instruct or associate with children should be evaluated on the basis of the function which will be required of the applicant upon employment. A brief description of functions is attached to this form.

Disabling disease should be considered in terms of:

(1) Evidence of lack of ability to demonstrate average physical and emotional capacity for the functions involved.

(2) Evidence of disability which periodically may disable the individual; for example, rheumatoid arthritis, uncontrolled diabetes, asthma.

(3) Evidence of long term disability which may progressively deteriorate; for example, malignancy, Multiple Sclerosis.

Check Every Item YES NO (Relate to functions to be performed)

1. Is there evidence of disabling disease of the musculo-skeletal, cardio-vascular, nervous, gastro-intestinal, genito-urinary, endocrine systems? ____

2. Is there evidence of disabling disease affecting vision, hearing or speech? ____

3. Is there evidence of disabling metabolic disease? ____

4. Is there evidence of infectious disease in a communicable stage? ____

5. Is there evidence of drug dependency including alcoholism? ____

6. Is there evidence of any other disabling disease? ____

On the basis of my medical examination on (date) _____ the above named individual is free from disabling disease, except as noted above, which I believe unfits the individual to instruct, in the position for which application is being made, or to associate with children.

Signature of Physician

Date

Name of Physician (print) License #

To be returned by the examining physician directly to the school district or County Office requesting the examination.

(d) The governing board of each district or county superintendent of schools office shall determine, on the basis of information on the medical examination form, whether or not the applicant is free from any disabling disease unfitting the applicant to perform the functions, required in the position for which application is being made, or to associate with children.

(e) The governing board of a school district or the county superintendent of schools office may require certificated employees to undergo a periodic medical examination by a licensed physician and surgeon to determine that the employee is free from any communicable disease unfitting the employee to instruct or associate with children. Such examination shall be at the expense of the school district and may be recorded in a locally developed medical referral form.

NOTE: Authority cited: Section 44843, Education Code. Reference: Section 44843, Education Code.

HISTORY

1. New section filed 1-17-75; effective thirtieth day thereafter (Register 75, No. 3).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Section 5505 to Section 5504 filed 11-9-79; effective thirtieth day thereafter (Register 79, No. 45). For history of former Section 5504, see Register 78, No. 45.

Subchapter 2. Duties of Certificated and Noncertificated Personnel

Article 1. Duties of All Certificated Personnel

§ 5530. Moral Supervision.

All certificated personnel shall exercise careful supervision of the moral conditions in their respective schools. The governing board, principals, and other certificated personnel shall not tolerate any act of a pupil described in Section 301.

HISTORY

1. New Chapter 1 (§§ 5530, 5531, 5550–5556, 5570 and 5590) filed 9–23–69 effective thirtieth day thereafter (Register 69, No. 39).

§ 5531. Supervision of Extracurricular Activities of Pupils.

All social activities of pupils, wherever held, if conducted under the name or auspices of a public school or of any class or organization thereof, shall be under the direct supervision of certificated employees of a district or an office of a county superintendent of schools.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 33031(c) and 33352, Education Code.

HISTORY

1. Amendment filed 3–7–78; effective thirtieth day thereafter (Register 78, No. 10).
2. New subsection (b) filed 7–30–81; effective thirtieth day thereafter (Register 81, No. 31).
3. Amendment filed 8–26–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 35).
4. Amendment filed 6–29–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 26).
5. Amendment filed 8–5–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 32).
6. Amendment filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 5532. Employment of Noncertificated Athletic Coaches.

NOTE: Authority cited: Sections 33031 and 35160, Education Code. Reference: Section 33352, Education Code.

HISTORY

1. New section filed 8–5–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 32).
2. Repealer filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

Article 2. Duties of Principals

§ 5550. Principal.

The governing board of each school district shall employ a principal for each school of the district who may also be a teacher. One person may be employed as principal of more than one school. In a one-teacher school the teacher is the principal.

§ 5551. Administration of School.

The principal is responsible for the supervision and administration of his school.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division."

§ 5552. Playground Supervision.

Where playground supervision is not otherwise provided, the principal of each school shall provide for the supervision by certificated employees of the conduct and safety, and for the direction of the play, of the pupils of the school who are on the school grounds during recess and other intermissions and before and after school.

§ 5553. Dissemination of Information.

(a) The principal of a school shall inform all employees in the school of the provisions of Articles 2 and 3 of Chapter 1 of Division 2 (pupils). He shall inform all certificated employees of the provisions of this chapter.

(b) The principal of the school shall inform, or cause to be informed of the provisions of Articles 2 and 3 of Chapter 1 of Division 2 (pupils) all pupils of the school in a way that the principal deems appropriate to the grade level of the pupils.

§ 5554. Records to Be Kept on File by All Principals in the Office of the School.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 32001, Education Code.

HISTORY

1. Repealer filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 5555. Additional Records Kept by High School Principals.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 51200, 51269, 60260–60265, and 60400, Education Code.

HISTORY

1. Repealer filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 5556. Reports to the State Department of Education.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 10043, Education Code.

HISTORY

1. Repealer filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

Article 3. Duties of Teachers

§ 5570. When School Shall Be Open and Teachers Present.

Unless otherwise provided by rule of the governing board of the school district, teachers are required to be present at their respective rooms, and to open them for admission of the pupils, not less than 30 minutes before the time prescribed for commencing school.

All teachers shall observe punctually the hours fixed by regulation of the governing board of the school district for opening and closing school.

Article 4. Duties of District Superintendents

§ 5580. Library Records.

The district superintendent (or principal if there is no superintendent) shall keep or cause to be kept the following school library records:

(a) Records of the acquisition of all school library materials which, with reasonable care and use, may be expected to last more than one year. Such records shall be kept in a book or card file provided for the purpose and shall include the name of the author, or other appropriate identification, the title, and the date recorded.

(b) An index, by name of author, title, and subjects, of all materials described in (a). If no author is identifiable, another appropriate entry may be substituted.

Article 5. Duties of Temporary Athletic Team Coaches

§ 5590. Definitions.

(a) "Temporary athletic team coach" as used in this article implements the substance of Education Code Sections 35179.5 and 44919. A "temporary athletic team coach" is a certificated or noncertificated employee, other than a substitute employee, hired to supervise or instruct interscholastic athletic activities as a temporary employee in a limited assignment capacity. The term is applicable to a certificated employee who supervises or instructs interscholastic athletic activities in addition to his or her regular assignment.

(b) An "athletic team" as used in this article is any team participating in any interscholastic athletic competition.

(c) An "interscholastic athletic competition" as used in this article is an interscholastic competition involving two or more schools.

(d) A "valid cardiopulmonary resuscitation (CPR) card" as used in this article is an unexpired CPR card obtained by successfully completing either:

(1) One of the courses listed in Section 100026 of Title 22 of California Code of Regulations (CCR) (two options being a course in cardiopulmonary resuscitation sponsored and/or approved by either the American Heart Association or the American Red Cross); or

(2) Subject to the conditions set out in this subsection below, a course from an entity which, in the judgment of the governing board of the school district, has provided the individual with CPR training that complies with the standards set out in Article 3 of Chapter 1.5 of Title 22 of the CCR, commencing with Section 100019.

(A) "Cardiopulmonary resuscitation" as it is used in this article shall conform to the definition of "cardiopulmonary resuscitation" as defined in Section 10006 of Title 22 of the CCR entailing standards promulgated by the American Heart Association and the American Red Cross.

(B) An expired CPR or first aid card can be revalidated in accordance with the retraining requirement set out in Section 100025 of Title 22 of the CCR.

(e) A "valid first aid card" as used in this article is any unexpired first aid card obtained by successfully completing either:

(1) One of the courses listed in Section 100026 of Title 22 of the California Code of Regulations (CCR) (one option being a course in first aid sponsored and/or approved by the American Red Cross); or

(2) Subject to the conditions set out in this subsection below, a course from an entity which, in the judgment of the governing board of the school district, has provided the individual with first aid training that complies with the standards set out in Article 3 of Chapter 1.5 of Title 22 of the CCR, commencing with Section 100019.

(A) "First aid" as it is used in this article shall conform to the definition of "first aid" as defined in Section 100008 of Title 22 of the CCR.

(B) An expired CPR or first aid card can be revalidated in accordance with the retraining requirements set out in Section 100025 of Title 22 of the CCR.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Sections 33353, 35179.5 and 44919(b), Education Code.

HISTORY

1. Renumbering of former Section 5590 to Section 5580, and new Section 5590 filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 5591. Supervision of Athletic Team Activities.

(a) All athletic team activities, wherever held, if conducted under the name and auspices of a public school or of any class or organization thereof, may be under the direct supervision of a temporary athletic team coach. Effective July 1, 1988, coaches shall meet the requirements of section 5593.

(b) Noncertificated coaches shall have no authority to give grades to students.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Section 35179.5, Education Code.

HISTORY

1. New section filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

§ 5592. Use of Noncertificated Temporary Athletic Team Coach.

The governing board of any school district may use a noncertificated temporary athletic team coach as defined in Section 5590 to supervise and instruct in interscholastic athletic programs and activities subject to the following general conditions:

(a) The district shall not use any noncertificated temporary athletic team coach who has been convicted of any offense referred to in Education Code Sections 44010, 44011, or 44424 or any offense involving moral turpitude or evidencing unfitness to associate with children.

(b) The district has on file a written statement from a licensed physician or other authorized individual approved by the district that the noncertificated temporary athletic team coach is free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching. The statement shall be renewed every four years.

(c) The noncertificated temporary athletic team coach complies with Section 5593.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Section 35179.5, Education Code.

HISTORY

1. New section filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
2. Change without regulatory effect repealing subsection (a) and relettering following subsections filed 11-21-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).

§ 5593. Temporary Athletic Team Coach Qualifications and Competencies.

This section applies to any person serving at any grade level as a temporary athletic team coach.

(a) The district shall determine whether a temporary athletic team coach is knowledgeable and competent in the areas of:

(1) Care and prevention of athletic injuries, basic first aid and emergency procedures;

(2) Coaching techniques;

(3) Rules and regulations in the athletic activity being coached; and

(4) Child or adolescent psychology, whichever is appropriate to the grade level of the involved sports activity.

(b) The district shall establish a temporary athletic team coach's qualifications in each of the below specified four competency areas.

(1) Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures as evidenced by one or more of the following:

(A) Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card; or

(B) A valid sports injury certificate or first aid card, and a valid cardiopulmonary resuscitation CPR card; or

(C) A valid Emergency Medical Technician (EMT) I or II card; or

(D) A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA); or

(E) The person has had practical experience under the supervision of an athletic coach or trainer, or has assisted in team athletic training and conditioning, and has both valid CPR and first aid cards.

(2) Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:

(A) Completion of a college course in coaching theory and techniques; or

(B) Completion of in-service programs arranged by a school district or a county office of education; or

(C) Prior service as a student coach or assistant athletic coach in the sport or game being coached; or

(D) Prior coaching in community youth athletic programs in the sport to be coached; or

(E) Prior participation in organized competitive athletics at high school level or above in the sport to be coached.

(3) Knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules and, at the high school level, regulations of the CIF.

(4) Knowledge of child or adolescent psychology as it relates to sports participation as evidenced by one or more of the following:

(A) Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions; or

(B) Completion of a seminar or workshop on human growth and development of youth; or

(C) Prior active involvement with youth in a school or community sports program.

(c) The school district superintendent may waive compliance with any one or more of the competencies described in subsection (a) provided

that the person is enrolled in a program leading to acquisition of a competency. Until the competencies are met, the prospective coach shall serve under the immediate supervision of a fully qualified temporary athletic team coach.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Sections 33352 and 35179.5, Education Code.

HISTORY

1. New section filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 5594. Local Board Certification of Athletic Coaches.

At the first regular board meeting or within 30 days after selection of a temporary athletic team coach, whichever is sooner, the district superintendent shall certify to the local board of trustees that the provisions in Section 5593 have been met. The board shall, by April 1 of each year, certify to the State Board of Education that the provisions of Section 5593 have been met. Said certification form shall be prescribed by the State Department of Education.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Section 35179.5(b), Education Code.

HISTORY

1. New section filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 5595. Recertification of Temporary Athletic Team Coaches.

Once a district has determined that a coach meets the provisions of Section 5593, the district may recertify the coach.

NOTE: Authority cited: Sections 33031 and 35179.5, Education Code. Reference: Section 35179.5, Education Code.

HISTORY

1. New section filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

§ 5596. Code of Ethical Conduct.

Each school district shall, no later than 90 days subsequent to the filing of this chapter with the Secretary of State, implement the following listed standards of ethical conduct for each temporary, probationary, or permanent employee of a school district providing supervisory and instructional services in interscholastic athletic programs and activities. Any specified person providing such services to the district shall:

- (a) Show respect for players, officials and other coaches.
- (b) Respect the integrity and judgment of game officials.
- (c) Establish and model fair play, sportsmanship, and proper conduct.
- (d) Establish player safety and welfare as the highest priority.
- (e) Provide proper supervision of students at all times.
- (f) Use discretion when providing constructive criticism and when reprimanding players.
- (g) Maintain consistency in requiring all players to adhere to the established rules and standards of the game to be played.
- (h) Properly instruct players in the safe use of equipment.
- (i) Avoid exerting undue influence on a pupil's decision to enroll in an athletic program at any public or private post-secondary educational institution.
- (j) Avoid exerting undue influence on pupils to take lighter academic course(s) in order to be eligible to participate in athletics.
- (k) Avoid suggesting, providing, or encouraging any athlete to use non-prescription drugs, anabolic steroids, or any substance to increase physical development or performance that is not approved by the United States Food and Drug Administration, Surgeon General of the United States or American Medical Association.
- (l) Avoid recruitment of athletes from other schools.
- (m) Follow the rules of behavior and the procedures for crowd control as established by the local board of education and the league in which the district participates.

NOTE: Authority cited: Sections 33031 and 35179.7, Education Code. Reference: Section 35179.7, Education Code.

HISTORY

1. New section filed 11–2–88; operative 12–2–88 (Register 88, No. 46).

Subchapter 3. Rights of Certificated Personnel

§ 5600. Duty-Free Lunch Period.

The duty-free lunch period for teachers and other certificated employees required by Education Code Section 44813 shall be not less than 30 minutes. It shall be allowed as near noon as is reasonably possible.

If the principal leaves the school premises during his duty-free lunch period, he shall leave the vice-principal or other certificated employee in charge.

NOTE: Authority cited: Section 44813, Education Code.

HISTORY

1. New Chapter 3 (§§ 5600, 5601) filed 9–23–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 5601. Transfer of Accumulated Sick Leave of Certificated Employees.

As used in this section, "accumulated sick leave" means a leave of absence for illness or injury that is earned under Education Code Section 44978 but is unused. A transfer of accumulated sick leave (1) from any of the following—a California school district, county superintendent of schools, or the State Department of Education to any of the following—a school district (except a community college district), county superintendent of schools, or the Department of Education; or (2) from the Commission for Teacher Preparation and Licensing or the Office of the Chancellor of the California Community Colleges to a school district (except a community college district), or county superintendent of schools is authorized by Education Code Sections 44979, 44980 and 44982, provided the certificated employee meets the eligibility requirements stated therein. The transfer shall be accomplished as follows:

- (a) The person who accumulated the leave, using a form furnished or prescribed by the State Department of Education, requests his former employing agency to send his new employing agency a written statement of his accumulated sick leave.
- (b) Upon receipt of the request, the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records.
- (c) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Department of Education shall be subject to the limitations specified by Education Code Section 44982.*

NOTE: Authority cited: Sections 44979, 44980 and 44982, Education Code.

HISTORY

1. Amendment filed 12–21–73; effective thirtieth day thereafter (Register 73, No. 51).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

* Refer to regulations affecting transfer to California Community Colleges or the Office of the Chancellor of the California Community Colleges. See regulations adopted by the Board of Governors of the California Community Colleges, Title 5, CAC, Part VI.

Subchapter 4. Grants of Financial Assistance to Certificated Personnel

Article 1. Scholarship Grants for Teachers of Reading

§ 5710. Application for a Scholarship Grant for Teachers of Reading.

An application for a scholarship grant described in Education Code Section 54170 shall be made upon forms prescribed and furnished by the State Department of Education. The application shall:

- (a) Specify the institution which the applicant proposes to attend.
- (b) Specify the course or courses in which the applicant proposes to enroll.
- (c) State that if the scholarship is granted the applicant will enroll for credit in the course or courses so specified and will use the money only for tuition, living expenses, and other necessary educational costs at the institution.
- (d) Specify whether the applicant will attend a regular session or a summer session, and, in either case, the beginning and closing dates of classroom work for the session shown in the catalogue of the institution conducting it.
- (e) Have attached the statement of the chief administrative officer of the district in which the applicant is employed, or by such officer of any other school district, either that the applicant has been nominated, or if the applicant successfully completes the course described in the application he will be nominated, for the position of specialist teacher by the district and will be employed by that district during the following school year. (For this purpose, it is assumed that the applicant will pass the examination for "teacher specialist.")

(f) Have attached to it a statement of the salary at which the applicant is employed, an estimate of other annual income received, and other information regarding income and expenses, as a basis of determination by the Department of the financial need of the applicant.

(g) Include such information as the Superintendent of Public Instruction may specify as a basis for determining the potential of the applicant to profit from the proposed course of study and to improve the reading program in any school in which he is employed to perform services.

NOTE: Authority cited: Sections 54171 and 56053, Education Code. Reference: Section 56050, Education Code.

HISTORY

1. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer of Article 1 (Sections 5700-5706) and renumbering of Article 2 (Sections 5710-5712) to Article 1 filed 11-9-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 5711. Review of Application; Recommendation.

An application for a scholarship grant shall be reviewed by the Department. Such review and the recommendation of the Superintendent of Public Instruction shall be made on the basis of the following criteria:

- (a) The application is complete.
- (b) The course or courses in which the applicant proposes to enroll are designed to improve the teaching of reading and have been approved by the State Board of Education.
- (c) The course or courses of study in which the applicant will enroll for credit total at least six semester hours. An application proposing enrollment in a course or courses totaling less than six semester hours may be accepted if the Department finds that the course or courses require an amount of time spent in classroom or other instruction equal to that usually required for six semester hours of credit or that the instruction proposed will be of sufficient scope, sequence, and depth to compare favorably with the content of courses for which six semester hours are given.

(d) The need of the district by which the applicant is or will be employed for specialized programs in the teaching of reading is great.

(e) The applicant has the potential to profit from the proposed course of study and will make a substantial contribution to the reading program of any district which he may serve.

(f) The financial need of the applicant is such that he would be unlikely to enroll in, and complete, the course of study without the aid of the scholarship.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 5712. Use or Return of Scholarship.

Scholarship money shall be used only to meet expenses in connection with attendance at colleges and universities approved by the State Board for purposes of Section 54171 of the Education Code and for enrollment in courses approved by the Department.

If a scholarship is granted and the \$250 is paid to the applicant, but the applicant is, for any reason, unable or unwilling to proceed with enrollment and completion of the course, the recipient of the award shall repay the \$250 to the State Board, unless the Superintendent of Public Instruction shall find that the recipient actually enrolled in the course but for reasons beyond his control was unable to complete it.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Loans to Teachers of Educationally Handicapped Minors for Specialized Preparation During the Summer (Section 56060 Loans)

§ 5720. Applicable Provisions of Article 1.

The provisions of Article 1 of this chapter apply to guaranteed loans to teachers of educationally handicapped minors authorized by Education Code Sections 56060 through 56064 (hereinafter called Section 56060 Loans).

NOTE: Authority cited: Section 56063, Education Code. Issuing Agency: Superintendent of Public Instruction.

HISTORY

1. New Article 3 (§§ 5720, 5721, 5722) filed 3-27-70; effective thirtieth day thereafter (Register 70, No. 13).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Article 3 (Sections 5720-5722) to Article 2 filed 11-9-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 5721. Approval of Specialized Preparation.

The Superintendent of Public Instruction will issue, with the application for a loan, a list of institutions offering specialized preparation that he approves as designed to develop competencies for teaching educationally handicapped minors. The applicant shall choose specialized preparation at an institution so listed.

The Superintendent of Public Instruction will consider for listing only colleges and universities that meet both of the following requirements:

- (a) They are approved by the State Board of Education (or comparable agency in state other than California) for preparing candidates for a teaching credential.
- (b) They offer a program of specialized preparation in teaching educationally handicapped minors or portions of such a program in conjunction with a program of specialized preparation for teaching physically handicapped or mentally handicapped minors.

§ 5722. Repayment of Loans.

A loan made pursuant to this article shall be repaid to the Department of Education in accordance with instructions on the application form (Form No. SE-34) furnished by the Department. The loan shall be repaid in five (5) equal annual installments, beginning on the first day of July following the summer the recipient undertook the preparation for which

the loan was made, and on July 1 of each year thereafter until paid. For good cause shown by the recipient, the Superintendent of Public Instruction may postpone the due date of any installment.

In order to receive the 20 percent credit authorized by Education Code Section 56063 in lieu of payment of an installment, the recipient shall present evidence that he taught educationally handicapped minors in the California public schools for the school year immediately preceding the July 1 when that installment is due. For the purposes of Education Code Section 56063 and this section, a "year" of teaching means teaching for the minimum school day applicable to the level taught for at least 75% of the number of days the regular schools of the district were maintained in the school year.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 5. Instructional Time and Staff Development Reform Program

§ 6000. Definitions.

For purposes of the Instructional Time and Staff Development Reform Program pursuant to Education Code sections 44579-44579.4 the following definitions shall apply:

(a) "Certificated classroom teacher" as used in Education Code section 44579.1(c)(1) means an employee of the school district or county office of education, employed in a position or positions requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in classrooms of the schools of that school district or county office of education. Certificated classroom teacher may include a substitute only if the employee or employees whom the substitute is replacing are not included for purposes of the Instructional Time and Staff Development Reform Program.

(b) "Certificated teaching assistant" as used in Education Code section 44579.1(c)(1) means a classified employee of the school district or county office of education who possesses a certificate issued pursuant to Education Code section 10020 and who is assigned to work in the classroom under the immediate supervision of a certificated classroom teacher.

(c) "Classified classroom instructional aide" as used in Education Code section 44579.1(c)(1) means a classified employee of the school district or county office of education, employed in a position or positions as defined in Education Code section 45343 whose duties require him or her to assist certificated classroom teachers in the classroom in the supervision and instruction of pupils.

(d) "Classroom instructional aide and assistant" as used in Education Code section 44579.1(c)(2) means an employee of a charter school who is assigned to assist a classroom teacher in the classroom in the supervision and instruction of pupils.

(e) "Classroom teacher" as used in Education Code section 44579.1(c)(2) means an employee of a charter school in a position or positions whose duties require him or her to provide direct instruction to pupils in classrooms of the charter school. Classroom teacher may include a substitute only if the employee or employees whom the substitute is replacing are not included for purposes of the Instructional Time and Staff Development Reform Program.

(f) "Core curriculum areas" as used in Education Code section 44579.1 means those areas of study specified in Education Code sections 51210(a) through (g) and 51220(a) through (j).

(g) "Number of teacher-days attendance" as used in Education Code section 44579.2(a)(3) means the sum of the full staff development days of attendance of the qualified classroom teachers, classroom instructional aides and teaching assistants of the school district, charter school, or county office of education.

NOTE: Authority cited: Sections 33031 and 44579.1(b), Education Code. Reference: Sections 10020, 41401, 44579-44579.4, 45343, 51210 and 51220, Education Code.

HISTORY

1. New subchapter 5 (sections 6000-6001) and section filed 2-2-98 as an emergency; operative 2-2-98 (Register 98, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-2-98 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 77, No. 39.
2. Subchapter 5 (sections 6000-6001) and section repealed by operation of Government Code section 11346.1(g) (Register 98, No. 43).
3. New subchapter 5 (sections 6000-6002) and section filed 10-23-98 as an emergency; operative 10-23-98 (Register 98, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-98 order, including amendment of subsection (e), transmitted to OAL 2-9-99 and filed 3-25-99 (Register 99, No. 13).

§ 6001. Records of Attendance.

"Records of attendance" as used in Education Code 44579.1(e) shall include a certification by a school district official that the contemporaneous record of attendance correctly represents the full days of attendance claimed for each of the participants claimed in Section 6002.

Each school district, charter school and county office of education participating in the Instructional Time and Staff Development Reform Program shall maintain a certification of the contemporaneous record of attendance of the eligible participants who attended each full staff development day for which the school district, charter school and county office of education requests grant funding pursuant to Education Code sections 44579-44579.4. If a single staff development day is conducted over several calendar days, the contemporaneous records must evidence that each eligible school district, charter school or county office of education employee who participated in the staff development day was present for the equivalent of a full-time instructional work day.

NOTE: Authority cited: Sections 33031 and 44579.1(b), Education Code. Reference: Sections 44579-44579.4, Education Code.

HISTORY

1. New section filed 2-2-98 as an emergency; operative 2-2-98 (Register 98, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-2-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 43).
3. New section filed 10-23-98 as an emergency; operative 10-23-98 (Register 98, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-99 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 10-23-98 order transmitted to OAL 2-9-99 and filed 3-25-99 (Register 99, No. 13).

§ 6002. Method of Application for Funds.

To receive funding, eligible school districts, charter schools and county offices of education shall complete and file with the California Department of Education an Instructional Time and Staff Development Reform Program Application for Funding and certification (November 1998).

NOTE: Authority cited: Sections 33031 and 44579.1(b), Education Code. Reference: Sections 44579.1 and 44579.2, Education Code.

HISTORY

1. New section filed 10-23-98 as an emergency; operative 10-23-98 (Register 98, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-22-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10-23-98 order, including amendment of section, transmitted to OAL 2-9-99 and filed 3-25-99 (Register 99, No. 13).

Subchapter 6. Positions Requiring Certification Qualifications

HISTORY

1. Amendment and renumbering of Chapter 6 (Sections 5800-5802) to Article 6 (Sections 80125-80127) of Chapter 1 of Part VIII, filed 12-16-77; effective thirtieth day thereafter (Register 77, No. 51). For prior history, see Register 69, No. 34.

Subchapter 7. No Child Left Behind Teacher Requirements

Article 1. General

§ 6100. Definitions.

For purposes of No Child Left Behind (NCLB) Teacher Requirements, the following definitions shall apply:

(a) "Advanced Certification" means a teacher who has achieved National Board Certification, or has completed the Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings (VPSS January, 2007) as defined in section 6105.

(b) "Coursework Equivalent to Undergraduate Major" means thirty-two non-remedial semester units in a particular discipline from an accredited institution of higher education shall constitute coursework equivalent to an undergraduate major.

(c) "Credential" means a Preliminary, Professional Clear or Life Credential, or any teaching credential issued under prior statutes, that authorizes a person to teach in California K-12 schools.

(d) "Elementary, Middle and High School" means the local educational agency shall determine, based on curriculum taught, by each grade or by each course, if appropriate, whether a course is elementary, middle or high school.

(e) "First Day of School" is the first day of school that students report to the school per the district school calendar.

(f) "Grade Span": The local educational agency shall determine, based on curriculum taught, which grades shall be included in the elementary, middle, or high school grade spans.

(g) "Hard-to-Staff Setting" means a middle or high school SRSA classroom, a middle or high school special education classroom, or a middle or high school alternative education program, as specified by California Education Code section 44865. Alternative education programs as specified in California Education Code section 44865 are limited to the following: home teacher, hospital classes, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court schools, county community schools, and district community day schools.

(h) "Hired" means a teacher is hired when they accept employment at the school district. The date a teacher is hired is not affected by a change of assignments or schools within the district. The date a teacher is hired in a district does not affect a teacher's "new" or "not new" to the profession status.

(i) "International Teacher" means a credentialed teacher prepared in a country other than the United States.

(j) "Level 1 Professional Development" means training that will provide a teacher the requisite understanding of each set of Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(k) "Level 2 Professional Development" means training that will provide a teacher a more in-depth understanding than was provided in Level 1 of each set of the grades seven through twelve Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve from an advance standpoint. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(l) "SRSA" means Small Rural Schools Achievement Program as defined in the *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B.

(m) "Teacher New to the Profession" means a teacher is new to the profession if they have graduated from an accredited institution of higher education and received a credential, or began an approved intern program, on or after July 1, 2002.

(n) "Teacher Not New to the Profession" means a teacher is not new to the profession if they graduated from an accredited institution of higher education and received a credential, or were enrolled in, or had completed, an approved intern program before July 1, 2002.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); Section 44275.4, Education Code; *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B; Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004; and Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

HISTORY

1. New subchapter 7 (articles 1-6, sections 6100-6125), article 1 (section 6100) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment of subsection (d), new subsection (j) and amendment of NOTE filed 11-15-2004; operative 11-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 47).
3. Amendment of section and NOTE filed 5-21-2008; operative 6-20-2008 (Register 2008, No. 21).

Article 2. Elementary Level Teachers

§ 6101. Elementary Teachers.

A teacher who meets NCLB requirements at the elementary level is one who:

- (1) Holds at least a bachelor's degree, and
- (2) Is currently enrolled in an approved intern program for less than three years or has a credential, and
- (3) Meets the applicable requirements in Section 6102 or 6103.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New article 2 (sections 6101-6104) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

§ 6102. Elementary Teachers New to the Profession.

A teacher who meets the NCLB requirements and is new to the profession at the elementary level, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential, must have passed a validated statewide subject matter examination certified by the Commission on Teacher Credentialing, including, but not limited to the California Subject Examination for Teachers (CSET) Multiple Subjects, Multiple Subject Assessment for Teachers (MSAT), and National Teaching Exams (NTE).

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

§ 6103. Elementary Teachers Not New to the Profession.

A teacher who meets NCLB requirements and is not new to the profession at the elementary level, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential, must have completed one of the following:

- (1) A validated statewide subject matter examination that the Commission on Teacher Credentialing has utilized to determine subject matter competence for credentialing purposes.
- (2) A high objective uniform state standard evaluation conducted pursuant to Section 6104 and in conjunction with the teacher's evaluation and assessment pursuant to Education Code section 44662, to determine the teacher's subject matter competence in each of the academic subjects taught by the teacher.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

§ 6104. High Objective Uniform State Standard Evaluation (HOUSSE).

(a) The high objective uniform state standard evaluation shall consist of HOUSSE Part 1 and HOUSSE Part 2.

(1) HOUSSE Part 1 shall be a summation of:

(A) years of experience teaching in the grade span or subject. In no event shall years of experience account for more than half of the total points necessary to demonstrate subject matter competency.

(B) core academic coursework in assigned grade span or subject.

(C) in-depth standards aligned professional development, and

(D) service to the profession including but not limited to presenter or consultant of core content area standards-based professional development; core subject-matter mentor; academic curriculum coach; university supervising master teacher; instructor at a regionally accredited college/university in content area/content methodology; Beginning Teacher Support and Assessment support provider in the core content area; published author on core curriculum area; national/state recognition as "Outstanding Educator" in content area/grade span; leadership role in the core content area on a high school accreditation team; facilitator or leader of a local instructional materials adoption committee in the core subject taught.

(2) HOUSSE Part 2 shall consist of direct observation and portfolio assessment in the grade span or subject taught. HOUSSE Part 2 will only be conducted if HOUSSE Part 1 does not identify sufficient experience, coursework, professional development or service to demonstrate subject matter competence.

(b) The high objective uniform state standard evaluation observation and portfolio section (HOUSSE Part 2) may be conducted at the time and by the means utilized to satisfy Education Code section 44662, except that (1) subject matter shall be defined as the State Academic Content Standards adopted by the State Board of Education pursuant to Education Code section 60605 for the grades and subjects taught, and (2) competency shall be demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing pursuant to Education Code section 44225(a). The demonstration of subject matter competence shall include one or more of the following:

(1) Classroom observation,

(2) Demonstration of knowledge of the appropriate grade-level and subject State Academic Content Standards, and

(3) Portfolio review of lesson plans and student work for one academic period as defined by the teacher setting.

(c) Local educational agencies shall conduct the California High Objective Uniform State Standard Evaluation (HOUSSE) by completing Form 1 — NCLB Teacher Requirements: Certificate of Compliance (revised December 2007), Form 2 — California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 1 — Assessment of Qualifications and Experience (revised December 2007), and Form 3 — California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 2 — Assessment of Current Qualifications through Classroom Observation and/or Portfolio Development (revised December 2007), as appropriate. Forms 1, 2, and 3 are hereby incorporated by reference into this section. Local education agencies may attach completed forms containing the same information as Forms 1, 2 and/or 3 to those forms rather than transcribing that information onto the applicable Form 1, 2, and 3.

(d) A teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation, and shall consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject for

which the teacher is demonstrating subject matter competency. A teacher must demonstrate subject matter competency only once for each grade span or subject taught.

(e) If the teacher does not satisfactorily meet standards 3 and 5.1 of the California Standards for the Teaching Profession as part of the NCLB evaluation, then subject matter competency shall be demonstrated through completion of the Peer Assistance and Review Program for Teachers or other individualized professional development plan, pursuant to Education Code section 44664, aimed at assisting the teacher to meet standards 3 and 5.1 of the California Standards for the Teaching Profession.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a); Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002; and Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

HISTORY

1. New section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

2. Amendment of section heading, section and NOTE filed 5-21-2008; operative 6-20-2008 (Register 2008, No. 21).

§ 6105. Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings.

(a) To use the Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings (VPSS, January 2007), the teacher must be assigned a Hard-to-Staff Setting as defined in section 6100(g):

(1) Have at least a bachelors degree,

(2) Have an Intern Certificate/Credential for no more than three years, or a Credential, as defined in 6100(c).

(3) Have demonstrated compliance in one NCLB Core Academic Subject as defined in the NCLB (20 USC 9101[11]) including elementary multiple subjects.

(b) If a teacher has less than 32 semester non-remedial units but at least 20 total or 10 upper division non-remedial semester units (or quarter unit-equivalent) in a NCLB core academic subject as defined in NCLB section 9101[11], the teacher must complete a Level 2 High Quality Professional Development Course as defined in section 6100(k) in the NCLB core academic subject. At least 36 hours is required to substantively address subject matter content at Level 2.

(c) If the teacher has less than 20 total or 10 upper division non-remedial semester units (or quarter unit-equivalent) in an NCLB core academic subject, the teacher must complete a Level 1 High Quality Professional Development Course as defined in section 6100(j) and Level 2 High Quality Professional Development Course as defined in section 6100(k) in the NCLB core academic subject. At least 36 hours is required to substantively address subject matter content at Level 1. In addition, teachers must also complete the Level 2 requirements, which include at least an additional 36 hours.

(d) To meet the high quality professional development specifications for the Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings, (VPSS, January 2007) the professional development will be consistent with state-adopted academic content standards, curriculum frameworks and adopted texts, and will incorporate the Assessment of Subject Matter Competency as outlined in the document California's Subject Matter Verification Process for Middle and High School Level Teachers in Special Settings (VPSS, January 2007).

(e) Teachers have up to three years from date of assignment as an eligible teacher to complete the program.

(f) The superintendent of any district/county shall attest that the professional development offered for Level 1 and Level 2 meets the subject matter specifications as outlined in section 6105(b), (c) and (d).

(g) The district/county shall make the master list of approved Level 1 and Level 2 Professional Development available to the public upon request.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a); Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002; and Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

HISTORY

1. New section filed 5-21-2008; operative 6-20-2008 (Register 2008, No. 21).

Article 3. Middle and High School Level Teachers

§ 6110. Middle and High School Teachers.

A teacher who meets NCLB requirements at the middle and secondary levels is one who:

- (1) Holds at least a bachelor's degree, and
- (2) Is currently enrolled in an approved intern program for less than three years or has a full credential, and
- (3) Meets the applicable requirements in section 6111 or 6112.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New article 3 (sections 6110-6112) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment of subsection (a)(3) filed 6-5-2006; operative 6-5-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 23).

§ 6111. Middle and High School Teachers New to the Profession.

(a) A teacher who meets NCLB requirements and is new to the profession at the middle and high school levels, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential in the subject taught, must have passed or completed one of the following for every core subject currently assigned:

- (1) A validated statewide subject matter examination certified by the Commission on Teacher Credentialing,
- (2) University subject matter program approved by the Commission on Teacher Credentialing,
- (3) Undergraduate major in the subject taught,
- (4) Graduate degree in the subject taught, or
- (5) Coursework equivalent to undergraduate major.

(b) A new special education teacher who is currently enrolled in an approved special education intern program for less than three years or who holds a special education credential, and can demonstrate subject matter competence in mathematics, language arts, or science, may demonstrate competence in the other core academic subjects in which the teacher teaches through the High Objective Uniform State Standard Evaluation contained in article 2 section 6104 not later than two years after date of employment.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Designation of first paragraph as subsection (a) and new subsection (b) filed 11-15-2005; operative 11-15-2005 pursuant to Government Code section 11343.4(c) (Register 2005, No. 46).

§ 6112. Middle and High School Teachers Not New to the Profession.

A teacher who meets NCLB requirements and is not new to the profession at the middle and high school levels, in addition to having at least a bachelor's degree and either being currently enrolled in an approved intern program for less than three years or holding a credential, must have passed or completed one of the following for every core subject currently assigned:

(1) A validated statewide subject matter examination that the Commission on Teacher Credentialing has utilized to determine subject matter competence for credentialing purposes,

(2) University subject matter program approved by the Commission on Teacher Credentialing,

(3) Undergraduate major in the subject taught,

(4) Graduate degree in the subject taught,

(5) Coursework equivalent to undergrad major,

(6) Advanced certification or credentialing (National Board Certification), or

(7) The high objective uniform state standard evaluation pursuant to article 2, section 6104.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment of subsections (1) and (7) filed 6-5-2006; operative 6-5-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 23).

§ 6113. Middle and High School Teachers Rural Flexibility.

(a) A teacher hired by a small rural LEA, as defined by the Small Rural School Achievement (SRSA) program, after the end of the 2003-04 school year, to teach multiple subjects must meet NCLB requirements in at least one core academic subject assigned but will have three years from the date of hire to obtain highly qualified status in all other core academic subjects assigned to teach.

(b) A teacher hired by a small rural LEA, as defined by the Small Rural School Achievement (SRSA) program, before the end of the 2003-04 school year, to teach multiple subjects must meet NCLB requirements in at least one core academic subject assigned but will have until the end of the 2006-07 school year to obtain highly qualified status in all other core academic subjects assigned to teach.

(c) In order to use this flexibility, covered LEAs will need to:

(1) provide high-quality professional development that increases the teachers' content knowledge in the additional subjects they teach; and

(2) provide mentoring or a program of intensive supervision that consists of structured guidance and regular, ongoing support so that teachers become highly qualified in the additional core academic subject(s) they teach.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance August 5, 2005.

HISTORY

1. New section filed 6-5-2006; operative 6-5-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 23).

Article 4. State Certification Not Meeting NCLB Teacher Requirements

§ 6115. State Certification Not Meeting NCLB Teacher Requirements.

A teacher does not meet the NCLB teacher requirements for the core academic subject taught if:

(1) Teaching with an Emergency Permit, or

(2) Teaching with state or local waivers for the grade or subject taught, or

(3) Teaching as a pre-intern pursuant to Education Code Section 44305 et seq.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); Section 44275.4, Education Code; and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004.

HISTORY

1. New article 4 (section 6115) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment of article heading and section heading, repealer of subsection (2), subsection renumbering and amendment of NOTE filed 11-15-2004; operative 11-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 47).

§ 6116. Teachers with Supplementary Authorizations and Local Teaching Assignment Options.

Teachers who hold a supplementary authorization or are employed on a local teaching assignment who meet the NCLB Teacher Requirements are those who:

- (1) hold a California teaching credential; and
- (2) have demonstrated subject matter competency for the grade span and subject matter taught.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004.

HISTORY

1. New section filed 11-15-2004; operative 11-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 47).

Article 5. One-Time Compliance

§ 6120. One-Time Compliance.

Once a school district has determined that a teacher meets the NCLB Teacher Requirements for the grade span and/or subject taught, that teacher will not be required to demonstrate that they meet the requirements again for the same grade span and/or subject taught, even if they are later hired by another school district in California.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002.

HISTORY

1. New article 5 (section 6120) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

Article 6. Teachers from Out-of-State

§ 6125. Teachers from Out-of-State.

Teachers who have met the subject matter competency requirements of NCLB in states outside of California shall also be considered to have met those requirements for that subject and grade span in California. California's credentialing reciprocity is not affected by the requirements of NCLB.

The date of issuance of a valid teaching credential issued by states outside of California shall be used to identify a teacher as new or not new to the profession in California.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); Section 44275.4, Education Code; and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004.

HISTORY

1. New article 6 (section 6125) and section filed 2-27-2004; operative 2-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment of section and NOTE filed 11-15-2004; operative 11-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 47).

§ 6126. International Teachers.

A teacher from another country who meets the NCLB Teacher Requirements is one who:

- (1) Holds a degree from a foreign college or university that is at least equivalent to a bachelor's degree offered by an American institution of higher education.
- (2) Has completed a teacher preparation program that meets the California Commission on Teacher Credentialing requirements for out-of-country trained teachers.
- (3) Demonstrates subject matter competency for the grade span and subjects taught through the same or equivalent processes and methods required of California Teachers.
- (4) Holds a California teaching credential.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004.

HISTORY

1. New section filed 11-15-2004; operative 11-15-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 47).

Chapter 7. Credentials and Institutions Preparing Candidates for Credentials

Subchapter 17. Teacher Preparation and Licensing Law of 1970

HISTORY

1. Amendment and renumbering of Subchapter 17, Articles 1-5 (Sections 5900-5991, not consecutive) to Part VIII, Chapter 1, Articles 1-4 (Sections 80000-80095, not consecutive), filed 12-16-77; effective thirtieth day thereafter (Register 77, No. 51). For prior history, see Registers 77, No. 44, No. 33, No. 21, No. 13; Registers 76, No. 49, No. 43, No. 25, No. 21, No. 17, No. 12, No. 5; Registers 75, No. 27, No. 25, No. 16; Registers 74, No. 51, No. 45; and Register 73, No. 26.

Subchapter 18. All Prior Credentials and Life Diplomas of Any Kind Whatsoever

Article 1. General Provisions

NOTE: Authority cited: Section 152 and Chapter 2 of Division 10, Education Code. Reference: Sections 13117-13119 and Chapter 2 of Division 10, Education Code.

HISTORY

1. New Subchapter 18 (§§ 6000-6011, 6020, 6025-6035, 6050-6053, 6055, 6058-6060, 6070-6077, 6080-6085, 6090-6097) filed 5-31-63; designated effective 1-1-64 (Register 63, No. 9).
2. Transfer of Subchapter 18 of Chapter 1 to Division 7, Chapter 1, with editorial reference corrections, but with same section numbers, filed 1-14-70 as an emergency; effective upon filing (Register 70, No. 3). For prior history, see Registers 63, Nos. 9 and 25; 68, No. 48; 69, No. 39.
3. Certificate of Compliance filed 3-23-70 (Register 70, No. 13).
4. Repealer of Article 1 (Sections 6000-6011) filed 3-26-81; effective thirtieth day thereafter (Register 81, No. 13). For prior history, see Registers 70, No. 21; 70, No. 9; 65, No. 22; 65, No. 17 and 65, No. 12.

Article 2. Fees

NOTE: Authority cited: Section 44225(b), Education Code. Reference: Sections 44234, 44280, 44289, and 44353, Education Code.

HISTORY

1. Amendment of subsections (a) and (b), and new subsection (c) filed 11-29-78; effective thirtieth day thereafter (Register 78, No. 48). For prior history, see Register 72, No. 44.
2. Repealer filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).

Article 3. Application for Credentials and Life Diplomas

NOTE: Authority cited: Sections 44225, 44336 and 44339, Education Code. Reference: Sections 44225, 44234, 44252, 44335, 44336, 44339 and 44344, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 6025-6035, not consecutive) filed 3-26-81; effective thirtieth day thereafter (Register 81, No. 13). For prior history, see Register 70, No. 21.

Article 4. Health Standards Required of Applicants for Credentials Authorizing School Service in California

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44336, Education Code.

HISTORY

1. Repealer of Article 4 (Sections 6050-6053) filed 3-26-81; effective thirtieth day thereafter (Register 81, No. 13). For prior history, see Registers 68, No. 48; 63, No. 9; 58, No. 9; 56, No. 5; 18, No. 9 and Register 3.

Article 5. Renewal of Credentials

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44331, Education Code.

HISTORY

1. Repealer of Article 5 (Section 6055) filed 3–26–81; effective thirtieth day thereafter (Register 81, No. 13). For prior history, see Registers 63, No. 9 and 61, No. 18.

Article 6. Life Diplomas Based on “Prior Regular Credentials”

NOTE: Authority cited: Section 44225, Education Code. Reference: Sections 44254 and 44255, Education Code.

HISTORY

1. Repealer of Article 6 (Sections 6058–6060) filed 3–26–81; effective thirtieth day thereafter (Register 81, No. 13). For prior history, see Registers 63, No. 9; 61, No. 18 and Register 3.

Article 7. Issuance and Denial of Credentials and Life Diplomas

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44244, Education Code.

HISTORY

1. Repealer of Article 7 (Sections 6070–6077) filed 1–31–80; effective thirtieth day thereafter (Register 80, No. 5). For prior history see Registers 78, No. 45, and 73, No. 3.

Article 8. Administrative Hearing upon Denial of an Application

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44244, Education Code.

HISTORY

1. Repealer of Article 8 (Sections 6080–6085) filed 1–31–80; effective thirtieth day thereafter (Register 80, No. 5).

Article 9. Suspension and Revocation of Certification Documents

NOTE: Authority cited: Section 44225, Education Code. Reference: Section 44244, Education Code.

HISTORY

1. Repealer of Article 9 (Sections 6090–6097) filed 1–31–80; effective thirtieth day thereafter (Register 80, No. 5).

Subchapter 18.1. Credentials Authorized by the Licensing of Certificated Personnel Law of 1961

HISTORY

1. Repealer of Subchapter 18.1 (Sections 6100–6562, not consecutive) filed 1–11–79; effective thirtieth day thereafter (Register 79, No. 2). For history of former Subchapter 18.1, see Registers 63, Nos. 9 and 25; 64, No. 17; 65, No. 12; 66, Nos. 5 and 23; 67, Nos. 16, 24 and 38; 68, Nos. 7, 23, 39, 44 and 48; 69, Nos. 3, 16, 20 and 21; 70, Nos. 3, 13, 25, 29 and 50; 72, No. 43; and 75, No. 39. Subchapter 18.1 originally filed 5–31–63; designated effective 1–1–64.

Subchapter 18.2. Restricted Credentials

HISTORY

1. Repealer of Subchapter 18.2 (Sections 6570–6604, not consecutive) filed 1–11–79; effective thirtieth day thereafter (Register 79, No. 2). For history of former Subchapter 18.2, see Registers 67, No. 51; 68, No. 48; and 70, Nos. 3 and 13.

Subchapter 18.3. Internship Credentials Issued under the Teacher Education Internship Act of 1967, As Amended

NOTE: Authority cited: Sections 152 and 13225, Education Code.

HISTORY

1. Transfer of Subchapter 18.3 of Chapter 1 to Division 7, Chapter 1, with same section numbers, filed 1–14–70 (Register 70, No. 3). For prior history see Register 67, No. 51 and 68, No. 48.
2. Certificate of Compliance filed 3–23–70 (Register 70, No. 13).
3. Repealer of Subchapter 18.3 (Sections 6620–6624) filed 9–23–82; effective thirtieth day thereafter (Register 82, No. 39).

Subchapter 18.4. Provisional and Miscellaneous Credentials

HISTORY

1. Repealer of Subchapter 18.4 (Sections 6630–6675, not consecutive) filed 1–11–79; effective thirtieth day thereafter (Register 79, No. 2). For history of former Subchapter 18.4, see Registers 70, Nos. 25 and 27; 71, Nos. 25 and 28; 72, Nos. 25 and 40; 78, Nos. 10 and 22.

Subchapter 19. Validation of Service Without a Credential

HISTORY

1. Redesignation from chapter 2 of part I (section 6680) to chapter 5 of part VIII (sections 80600–80606, not consecutive) filed 1–11–79; effective thirtieth day thereafter (Register 79, No. 2). For prior history, see Registers 70, No. 9 and 68, No. 7.
2. Editorial redesignation only of former chapter 2 to subchapter 19 due to reformatting of the California Code of Regulations (Register 90, No. 17).

Subchapter 20. Accreditation of Teacher Education Institutions for Teacher Certification Purposes

NOTE: Authority cited for chapter 3 (sections 6685–6692 and 6694–6699): Section 13101, Education Code.

HISTORY

1. Editorial renumbering of subchapter 3.5, sections 800–807 and 820–826, to division 7, chapter 3, sections 6685–6692 and 6694–6699, respectively (Register 70, No. 9). For prior history, see Registers 54, No. 11; No. 12; and 63, No. 18.
2. Repealer of chapter 3 (sections 6685–6699, not consecutive) filed 9–23–82; effective thirtieth day thereafter (Register 82, No. 39).
3. Editorial redesignation only of former chapter 3 to subchapter 20 due to reformatting of the California Code of Regulations (Register 90, No. 17).

Chapter 9. Instructional Materials*

*For State Board procedures relating to text books, see Div. 20.

Subchapter 1. Elementary Instructional Materials

Article 1. General Provisions

§ 9500. Definition.

NOTE: Authority cited: Sections 33031, 60401 and 60500, Education Code. Reference: Sections 20241(e)(2) and 60024 Education Code.

HISTORY

1. Amendment of section and N filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 75, No. 40.
2. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9501. Ownership of Materials.

NOTE: Authority cited: Sections 33031, 60401 and 60500, Education Code. Reference: Sections 60295 and 60315, Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

2. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9502. Loan of Instructional Materials.

NOTE: Authority cited: Sections 33031, 60404 and 60500, Education Code. Reference: Sections 60314 and 60315, Education Code.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9503. Distribution of Large Print Textbooks.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9504. Distribution of Braille Textbooks.

NOTE: Authority cited: Sections 33031, 60401 and 60500, Education Code. Reference: Section 60312, Education Code.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9505. Purchase of In-Service Training.

No cash allotment authorized by Education Code Section 60242(b) for purchase of in-service training shall be expended for salaries or for travel or per diem expenses of district employees during or attendant to participation in such in-service training.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60242(b), Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

2. New NOTE filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 9506. Improvement of Quality and Reliability Through Learner Verification.

A plan developed by a publisher or manufacturer to improve the quality and reliability of instructional materials through learner verification shall include, but not be limited to, the following components:

(a) A design for evaluating the effectiveness of the materials in achieving a positive impact on pupil learning, including the effectiveness of the materials with diverse pupil populations and pupils with special needs.

(b) A description of the process for the collection of field testing data.

(c) Provisions for input on the materials from parents, teachers, pupils, and administrators.

(d) A description of the process by which problems with the materials will be identified and a description of the anticipated procedures for solving the problems.

NOTE: Authority cited: Sections 33031 and 60206, Education Code. Reference: Section 60226, Education Code; and *Engelmann v. State Board of Education* (1991), 2 Cal. App. 4th 47, 50.

[The next page is 107.]

HISTORY

1. New section filed 8–28–96; operative 9–27–96 (Register 96, No. 35).

Article 2. Adoption of Curriculum Frameworks, Evaluation Criteria and Instructional Materials — Procedures

§ 9510. Definitions.

For purposes of curriculum frameworks, evaluation criteria and instructional materials adoptions, the following definitions shall apply:

(a) "Adoption Report" is the final report reflecting the State Board of Education's (SBE) action on instructional materials submitted for adoption.

(b) "CDE" is the California Department of Education.

(c) "Content Standards" are those adopted by the SBE, pursuant to Education Code section 60605, et seq.

(d) "Curriculum Commission" is the Curriculum Development and Supplemental Materials Commission as referenced in Education Code section 33530.

(e) "Curriculum Commission Advisory Report" is produced by the Curriculum Commission to indicate whether each set of instructional materials submitted for adoption meets the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The Curriculum Commission Advisory Report shall include, at a minimum:

(1) a recommendation for or against the adoption of each set of instructional materials, and

(2) if applicable, a list of edits and corrections that should be made to the instructional materials as a condition of adoption.

(f) "Curriculum Commissioner" is an individual appointed to the Curriculum Commission, pursuant to Education Code section 33530.

(g) "Deliberations" means the time set forth in the Schedule of Significant Events when Content Review Experts (CREs) and Instructional Materials Reviewers (IMRs) assemble into review panels and meet in open publicly-noticed meetings to discuss and make recommendations regarding the instructional materials submitted for adoption.

(h) "Edits and corrections" are changes that must be made to submitted instructional materials to meet the social content standards, to ensure accuracy, or to achieve clarity and that are minimal in number, and include, but are not limited to:

(1) Misquoted content standards;

(2) Imprecise definitions;

(3) Mislabeled pictures or objects;

(4) Grammatical errors or misspellings;

(5) Simple factual errors;

(6) Computational errors.

(i) "Evaluation criteria" are adopted by the SBE for the evaluation of submitted instructional materials, pursuant to Education Code section 60005(c)(2).

(j) "Executive Committee" is a subcommittee of the Curriculum Commission that is comprised of the chairperson and vice chairperson of the Curriculum Commission and three other Curriculum Commissioners chosen by the Curriculum Commission, with the primary purpose of advising the Curriculum Commission on issues related to internal governance of the Curriculum Commission and its subcommittees and advisory groups.

(k) "Facilitator" is a Curriculum Commissioner, former Curriculum Commissioner, IMR or CDE employee assigned by the Curriculum Commission to help each IMR/CRE review panel organize and reach consensus during deliberations. The SBE must approve the participation of any facilitator who is not a current Curriculum Commissioner. Facilitators shall be trained by CDE staff, Curriculum Commissioners, SBE members, or other parties approved by SBE, during publicly-noticed meetings prior to deliberations.

(l) "Free instructional materials" refer to instructional materials provided at no cost by a publisher to a county office of education, district board, elementary school, middle school or high school.

(m) "IMR/CRE Report of Findings" is compiled by CDE and contains the determinations of all the IMR and CRE review panels as to whether the instructional materials reviewed by each panel meet the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The report shall include, at a minimum:

(1) a recommendation for or against the adoption of each set of instructional materials, and

(2) if applicable, a list of edits and corrections that should be made to the instructional materials as a condition of adoption.

(n) "Invitation to Submit Instructional Materials" (Invitation to Submit) is the document prepared by the CDE for each instructional materials adoption that:

(1) identifies the applicable content standards, curriculum framework and evaluation criteria for the adoption;

(2) sets out the statutes, regulations, and timelines that govern the adoption process; and

(3) invites publishers to participate in the process.

(o) "Learning Resources Display Center" (LRDC) is where instructional materials, curriculum frameworks and evaluation criteria that are submitted for adoption shall be available for public viewing, pursuant to Education Code section 60202.

(p) "Period of adoption" is the length of time established by the SBE, as set forth in the Schedule of Significant Events, that instructional materials adopted by the SBE shall be available for procurement, pursuant to Education Code section 60200(i).

(q) "Publisher" is any company, person, or entity that submits instructional materials for adoption.

(r) "Rewrites" are extensive changes that would need to be made to instructional materials in order for them to meet the content standards, curriculum frameworks, evaluation criteria or social content standards and include, but are not limited to:

(1) Revising a section, chapter or entire page;

(2) Adding new content;

(3) Moving materials from one grade level to another.

(s) "Schedule of Significant Events" is a timeline adopted by the SBE for each instructional materials adoption that sets out the dates for key events that will take place during the adoption. The Schedule of Significant Events is included in the Invitation to Submit document and is posted on the CDE website.

(t) "Social content standards" are those set forth in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition, incorporated by reference.

(u) "Standards and evaluation criteria maps" are templates prepared by the CDE and approved by the SBE for each adoption that must be completed by publishers submitting instructional materials for adoption and are designed to determine if instructional materials meet the content standards and evaluation criteria. The standards and evaluation criteria maps are available on the CDE website.

(v) "Subject Matter Committees" are subcommittees of the Curriculum Commission composed of Curriculum Commissioners, whose members are selected by the Curriculum Commission, each with the primary purpose of assisting the Curriculum Commission in making recommendations on matters related to a particular subject matter area and shall exist for the following subject matter areas:

(1) Foreign Language

(2) History–Social Science

(3) Mathematics

(4) Physical Education

(5) Reading/Language Arts/English Language Development

(6) Science

(7) Visual/Performing Arts

(8) Health

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 33530, 60010, 60048, 60061, 60200, 60202, 60204 and 60605, Education Code.

HISTORY

1. Amendment of article heading and section heading, new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10). For prior history of section, see Register 2001, No. 4.

§ 9510.5. Internal Governance of the Curriculum Commission.

The Curriculum Commission, through its own bylaws, approved by the SBE, shall provide for its internal governance, including, but not limited to, the election of its officers and the establishment of its subcommittees and advisory groups.

NOTE: Authority cited: Sections 33031, 60005, 60204 and 60206, Education Code. Reference: Section 33003 and 60206, Education Code.

HISTORY

1. New section filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9511. Curriculum Framework and Evaluation Criteria Committee Establishment, Composition and Membership Qualifications.

(a) At the SBE's request, the Curriculum Commission shall recommend a curriculum framework and evaluation criteria to the SBE.

(b) The SBE may establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the process of developing a curriculum framework and evaluation criteria for a particular content field and to make a recommendation to the Subject Matter Committee, Curriculum Commission and SBE regarding a curriculum framework and evaluation criteria.

(c) When the SBE requests that the Curriculum Commission recommend a curriculum framework and evaluation criteria, the CDE shall convene four public focus groups of educators in different regions of California to provide comment to the Curriculum Commission, the CFCC (if established), and the SBE.

(d) The CFCC shall be composed of a minimum of 9 to a maximum of 20 members appointed by the SBE.

(e) The Curriculum Commission shall make recommendations to the SBE on appointing CFCC members according to the qualifications stated below. The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the public according to the qualifications stated below.

(f) A majority of CFCC members, at the time of appointment, shall be teachers who teach students in kindergarten or grades 1–12 and have a "professional" credential (5 CCR 80001) under state law, and meet the definition of "highly qualified" (20 USC 7801(23)) under federal law. At least one such teacher shall have experience in providing instruction to English Learners, and at least one such teacher shall have experience in providing instruction to students with disabilities.

(g) CFCC members who are teachers as described in subsection (f) above shall have experience with, and expertise in, standards-based educational programs and practices in the content field under consideration.

(h) At least one CFCC member shall be a Content Review Expert (CRE) and shall meet the qualifications set forth in section 9512.

(i) Other CFCC members may be administrators, parents, local school board members, teachers not described in the first sentence of subsection (f) above, and members of the public.

(j) The SBE shall appoint CFCC members who are reflective of the various ethnic groups, types of school districts, and regions in California.

(k) CFCC members shall receive training and information during publicly-noticed meetings from any of the following as recommended by the Curriculum Commission and approved by the SBE:

(1) Current and former CDE staff, Curriculum Commissioners, SBE members and CREs;

(2) Subject matter experts whose qualifications are consistent with those for CREs as set forth in section 9512.

(l) CFCC members shall serve until they make their recommendations to the Curriculum Commission and SBE.

(m) All CFCC members operate under the guidance and at the pleasure of the SBE.

NOTE: Authority cited: Sections 33031, 60005, 60200 and 60206, Education Code. Reference: Sections 33530 and 60204, Education Code.

HISTORY

1. New section filed 9–10–92; operative 10–12–92. Submitted to OAL for printing only pursuant to Education Code section 60004 (Register 92, No. 37).

2. Amendment of section and NOTE filed 8–28–96; operative 9–27–96 (Register 96, No. 35).

3. Amendment of section and NOTE filed 1–22–2001; operative 2–21–2001 (Register 2001, No. 4).

4. Amendment of section heading, repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9512. Appointment of Instructional Materials Reviewers and Content Review Experts.

(a) The SBE shall appoint Instructional Material Reviewers (IMRs) and Content Review Experts (CREs) to serve as advisors to the Curriculum Commission and SBE, in the review of instructional materials submitted for adoption. At least one CRE shall also be appointed to participate on each CFCC.

(b) The Curriculum Commission shall make recommendations to the SBE on appointing IMRs and CREs according to the qualifications stated below. The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the public according to the qualifications stated below.

(c) A majority of IMRs, at the time of appointment, shall be teachers who teach students in kindergarten or grades 1–12 and have a "professional" credential under (5 CCR 80001) state law, and meet the definition of "highly qualified" (20 USC 7801(23)) under federal law, and who have experience with, and expertise in, standards-based educational programs and practices in the content field under consideration. At least one such teacher shall have experience in providing instruction to English Learners, and at least one such teacher shall have experience in providing instruction to students with disabilities.

(d) Other IMRs may be administrators, parents, local school board members, teachers not described in the first sentence of subsection (c) above, and members of the public.

(e) When the instructional materials, or curriculum frameworks and evaluation criteria, considered for adoption are in a content field other than reading/language arts and visual/performing arts, the CREs shall hold a doctoral degree in that field or related field.

(f) When the instructional materials, or curriculum frameworks and evaluation criteria, considered for adoption are (1) in the content field of reading/language arts or visual/performing arts, the CREs shall have a masters degree or higher in that field and 5 or more years of experience with, and expertise in, standards-based educational programs and practices in that field, or (2) in the content field of reading/language arts, a doctoral degree and expertise in "research on how reading skills are acquired" as defined in Education Code section 44757.5.

(g) The SBE shall appoint IMRs and CREs who are reflective of the various ethnic groups, types of school districts, and regions in California.

(h) IMRs and CREs shall receive training and information during publicly-noticed meetings from any of the following as recommended by the Curriculum Commission and approved by the SBE:

(1) Current and former CDE staff, Curriculum Commissioners, SBE members and CREs;

(2) Subject matter experts whose qualifications are consistent with those for CREs as set forth in this section.

(i) IMRs and CREs shall serve until the SBE acts to adopt or not adopt the submitted instructional materials. CREs who are appointed to serve on a CFCC shall serve until the CFCC makes its recommendations to the Curriculum Commission and SBE.

(j) All IMRs and CREs operate under the guidance and at the pleasure of the SBE.

NOTE: Authority cited: Sections 33031, 60005, 60200 and 60206, Education Code. Reference: Sections 33530 and 60204, Education Code.

HISTORY

1. New section filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9513. Application Process for Curriculum Framework and Evaluation Criteria Committee Members, Instructional Materials Reviewers and Content Review Experts.

(a) At least 90 days before the scheduled date of appointment by the SBE, the CDE shall distribute application forms, approved as to form by the SBE, to become a CFCC member, an IMR, or a CRE to districts, county offices, Learning Resources Display Centers (LRDCs) and others upon request, as well as post the application forms on the CDE website, to ensure sufficient time for interested parties to complete and submit applications to the Curriculum Commission.

(b) The CDE shall assist the Subject Matter Committee and the Curriculum Commission in reviewing all the submitted applications to ensure applications are complete.

(c) All completed applications, with the exception of personal information, shall be available for viewing at the CDE and SBE during normal business hours and at every publicly-noticed meeting at which the applications are considered.

(d) Prior to the SBE taking any action to appoint applicants, a list of the applicants' names and respective employers, if applicable, shall be posted on the CDE website and provided to the SBE. Upon action by the SBE, the list shall be updated to indicate whether or not each applicant was appointed.

NOTE: Authority Cited: Sections 33031, 60005, 60200 and 60206, Education Code. Reference: Sections 33530 and 60204, Education Code.

HISTORY

1. New section filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9514. Prohibited Communications.

(a) Publishers or their representatives shall not communicate with facilitators, IMRs and CREs, during their tenure, and facilitators, IMRs and CREs, during their tenure, shall not communicate with publishers or their representatives, about anything related to the evaluation or adoption of instructional materials submitted for adoption, other than when publishers are making presentations or public comment in open publicly-noticed meetings. When publishers or their representatives, or facilitators, IMRs or CREs, make a prohibited communication, the SBE may take corrective action, including disqualification of the publisher, facilitator and IMR/CRE from further participation in the adoption.

(b) Publishers, or their representatives, shall not communicate with Curriculum Commissioners about anything related to the evaluation or adoption of instructional materials, other than during the times for public comment in open publicly-noticed meetings, or other than through written submissions addressed to all Curriculum Commissioners in care of the Executive Director of the Curriculum Commission, between the date set forth in the Schedule of Significant Events when instructional materials are delivered to IMRs, CREs and LRDCs and the date when the SBE takes action to adopt. When publishers or their representatives, or curriculum commissioners make a prohibited communication, the SBE may take corrective action, including disqualification of the publisher and the Curriculum Commissioner from further participation in the adoption.

(c) Notwithstanding the above prohibitions, facilitators, IMRs, CREs, and Curriculum Commissioners may contact publishers for technical assistance in using electronic instructional materials.

(d) Notwithstanding the above prohibitions, publishers or their representatives may communicate with the chairperson, or designee, of the Curriculum Commission or the chairperson, or designee, of the Subject Matter Committee involved in the adoption during the time set forth for deliberations.

NOTE: Authority Cited: Sections 33031 and 60206, Education Code. Reference: Sections 33530, 60200 and 60204, Education Code.

HISTORY

1. New section filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9515. Public Inspection of, and Comment on, Curriculum Framework and Evaluation Criteria.

(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission shall:

(1) direct the appropriate Subject Matter Committee to consider the draft curriculum framework and evaluation criteria developed by the CFCC, if applicable, and submit its recommendation to the Curriculum Commission;

(2) consider the recommendation from the Subject Matter Committee;

(3) approve a draft curriculum framework and evaluation criteria and make it available for public review and comment for a minimum of 60 days. The CDE shall ensure that the draft curriculum framework and evaluation criteria is posted on the CDE website for the entire period, and available at the LRDCs during this period; and

(4) hold at least one publicly-noticed meeting to receive comment on the draft curriculum framework and evaluation criteria as referenced below.

(b) Any comment from a member of the public regarding a draft curriculum framework and evaluation criteria that is received by the Executive Director of the Curriculum Commission not later than 14 days prior to the date set for the publicly-noticed meeting at which the Curriculum Commission is scheduled to consider whether to recommend the draft curriculum framework and evaluation criteria to the SBE for adoption, will be distributed to members of the Curriculum Commission not later than 3 days before the meeting. Notice of the 14-day deadline, and the Executive Director's mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs at least 60 days before the meeting.

(c) After the Curriculum Commission recommends a curriculum framework and evaluation criteria to the SBE for adoption, the CDE shall ensure that the recommended curriculum framework and evaluation criteria is posted on the CDE website for a 60-day period, and available at the LRDCs during this period, for public review and comment prior to consideration by SBE for adoption.

(d) Nothing in this section shall restrict a member of the public from directly addressing a state body at any publicly-noticed meeting, orally or in writing, relating to a curriculum framework and evaluation criteria.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60202 and 60204, Education Code; Section 11125.7, Government Code.

HISTORY

1. New Article 2.1 (sections 9515-9524) and section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).

2. New subsection (f) and amendment of NOTE filed 12-8-2004; operative 1-7-2005 (Register 2004, No. 50).

3. Amendment relocating article 2.1 heading from section 9515 to section 9527, amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9516. Public Meetings Held by the Curriculum Commission and the SBE Regarding Curriculum Frameworks and Evaluation Criteria.

(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE for adoption, the Curriculum Commission shall hold at least one publicly-noticed meeting. To recommend a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission must conduct a roll call vote with at least 9 affirmative votes required for the recommendation, or at least 10 affirmative votes required for the recommendation when all 18 commissioners vote.

(b) Prior to adopting a curriculum framework and evaluation criteria, the SBE shall receive the recommendation of the Curriculum Commission and hold at least one publicly-noticed meeting.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60204, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt

from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).

2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9517. Procedures for Submitting Instructional Materials for Adoption.

(a) The CDE shall provide a copy of the Invitation to Submit to every publisher that submits a request and also make it available on its website.

(b) Publishers shall adhere to all dates and times set forth in the Schedule of Significant Events, as approved by the SBE.

(c) On or before 5:00 p.m. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE a CD-ROM and hard copy containing the following submission information (Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show the CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.):

(1) A list of all instructional materials that will be submitted for adoption.

(2) A short narrative description of the instructional materials that will be submitted. The description should not exceed 6 pages, single spaced.

(3) A description of the technology requirements that will be necessary to review the submitted instructional materials.

(4) Contact information for the publisher's primary contact for the adoption, a California contact, and a contact for technology-based matters.

(d) Upon its determination that the submission information is complete, the CDE will request samples of all instructional materials for evaluation.

(e) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE completed standards and evaluation criteria maps on a CD-ROM and in hard copy for all instructional materials that have been accepted for evaluation.

(f) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall deliver samples of all instructional materials that have been accepted for evaluation to the evaluators and locations specified by CDE. Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.

(g) Publishers shall deliver all samples free of shipping, handling, sampling, or other charges.

(h) Publishers shall include in instructional materials submitted for adoption, only content standards approved by the SBE and specified in the evaluation criteria for the adoption. Adopted instructional materials shall not include references to national standards or standards from other states.

(i) Publishers shall list, in the teacher's edition and/or in the student's edition submitted for adoption, only authors, reviewers, consultants, advisors, field test teachers, and others who actually contributed to the development of the materials and the capacity in which they served.

(j) Publishers shall submit all instructional materials in the same physical form that will be offered for purchase during the adoption period with the following exceptions:

- (1) Audio recordings may be submitted in manuscript form;
- (2) Artwork may appear in black and white that will ultimately appear in color in the instructional materials offered for purchase during the adoption period.

(3) Alternate formats as described in section 9528.

(k) Except as described in sections 9528 and 9529, publishers shall not change or modify instructional materials after the date specified in the Schedule of Significant Events for delivery of instructional materials to IMRs, CREs and LRDCs. Instructional materials changed or modified

after this delivery date shall be disqualified from consideration in the adoption unless the changes or modifications are approved by the SBE.

(l) On or before 5:00 p.m. of the date specified in the Schedule of Significant Events, publishers shall submit to the CDE price quotations for the sale of completed instructional materials, including all transportation costs.

(m) Publishers are discouraged from withdrawing their instructional materials from the adoption after the materials have been submitted. Any such withdrawal may be noted in the Curriculum Commission Advisory Report and Adoption Report.

(n) Publishers shall not publicize in marketing materials any part of the IMR/CRE Report of Findings, Curriculum Commission Advisory Report or the Adoption Report.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200, 60202, 60204, 60221 and 60222, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).

2. Amendment of first paragraph and subsections (h)-(j), new subsection (k) and amendment of NOTE filed 12-8-2004; operative 1-7-2005 (Register 2004, No. 50).

3. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9517.1. Follow-Up Adoptions: Notice to Publishers and Manufacturers, Intent to Submit, Fee, List of Adopted Materials. [Repealed]

NOTE: Authority cited: Sections 33031 and 60206, Education Code. Reference: Sections 60200, 60201, 60202, 60204, 60206, 60221, 60222 and 60227, Education Code.

HISTORY

1. New section filed 12-8-2004; operative 1-7-2005 (Register 2004, No. 50).

2. Repealer filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9517.2. Textbook Weight Standards.

(a) For the purposes of this section, a "textbook" means a book adopted by a governing board for use by students as the principal learning resource for a course.

(b) The following maximum weight standards are in effect for each student textbook in elementary and secondary schools:

- (1) Grades K-4: Three Pounds
- (2) Grades 5-8: Four Pounds
- (3) Grades 9-12: Five Pounds

(c) Publishers and manufacturers submitting textbooks for adoption by the State Board of Education for kindergarten through grade eight that exceed the maximum weight standards listed above shall provide at least one alternative for lighter weight materials with identical content. These lighter weight alternatives may include, but are not limited to, split volumes, electronic editions, softcover editions or other alternate physical formats. The lighter weight alternative must be identified by the publisher when they submit their textbooks to the California Department of Education (CDE) as part of the instructional materials adoption.

(d) For materials for grades nine through twelve, the availability of lighter weight alternatives must be disclosed to local education agencies prior to local governing board adoption of textbooks.

(e) The following are exceptions to the maximum weight standards listed in subdivision (b) above:

(1) Materials prepared in large-print, Braille, or other materials specifically designed to provide accessibility for students with disabilities. This includes the materials prepared by the CDE's Clearinghouse for Specialized Media and Technology.

(2) Textbooks that are only used in the classroom, and are not required to be carried home or to other locations by students, are not subject to the maximum weight standards. This exception does not exempt districts from the requirements of Education Code section 60119.

(3) Textbooks that are primarily for use by the teacher are not subject to the maximum weight standards, unless students are required to carry

the materials home or to other locations as part of the intended use of those textbooks.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49415, Education Code.

HISTORY

1. New section filed 8-27-2007; operative 9-26-2007 (Register 2007, No. 35).

§ 9518. Social Content Standards for All Instructional Materials Adoptions.

The social content standards in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition, approved by the SBE on January 13, 2000, and maintained on the CDE website at <http://www.cde.ca.gov/ci/cr/cf/lc.asp>, are incorporated in this section by reference and apply to all SBE adoptions of instructional materials in all subjects.

NOTE: Authority cited: Sections 33031, 60005, 60048, 60200 and 60206, Education Code. Reference: Sections 60040-60044, 60048, 60200 and 60200.2, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9519. Instructional Materials Review Panels and Curriculum Commission Advisory Report.

(a) The CDE will propose and the Curriculum Commission shall approve, for each adoption of instructional materials, the organization of IMRs and CREs into review panels, the assignment of instructional materials to be evaluated by each review panel, and the assignment of a facilitator to each review panel.

(b) Each review panel shall be composed of 5 to 15 IMRs and CREs, of which a majority must be IMRs who are teachers, as described in the first sentence of subsection (c) of section 9512, and at least 1 must be a CRE.

(c) Each review panel must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria and social content standards.

(d) At the discretion of the chairperson of the Curriculum Commission, the chairperson of the Subject Matter Committee involved in the adoption or the Executive Director of the Curriculum Commission, a CRE or IMR with special expertise may respond to questions raised by review panels to which the CRE or IMR has not been assigned.

(e) Each review panel shall decide which instructional materials to recommend for adoption.

(f) Each review panel shall make recommendations as to edits and corrections that should be made to instructional materials.

(g) Review panels shall not recommend rewrites of instructional materials.

(h) Each review panel is encouraged to reach consensus on recommendations. If necessary, the panel will conduct a vote with a simple majority necessary to put forward a recommendation.

(i) The recommendations of the review panels shall be compiled by the CDE into a document titled "IMR/CRE Report of Findings" that shall be presented to the Curriculum Commission. At least 10 days before the first meeting of the Curriculum Commission that follows the issuance of the IMR/CRE Report of Findings, the CDE shall distribute the IMR/CRE Report of Findings to the Curriculum Commission and post it on its website.

(j) The Curriculum Commission, the CDE, the SBE, or SBE staff may call upon IMRs and CREs to assist the Curriculum Commission or the SBE in understanding how instructional materials meet the content standards, curriculum frameworks, evaluation criteria and social content standards. In the event that it is determined that other subject matter experts should be called upon to assist the Curriculum Commission or the SBE in understanding how instructional materials meet the content stan-

dards, curriculum frameworks, evaluation criteria and social content standards, such experts shall have qualifications that are consistent with those for CREs as set forth in section 9512 and shall be appointed by the SBE.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60204, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9520. Written Statements to the Curriculum Commission Regarding Instructional Materials and Curriculum Frameworks Submitted for Adoption. [Repealed]

NOTE: Authority cited: Sections 33031 and 60004, Education Code. Reference: Section 60202, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Repealer filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9521. Public Comments Regarding Content of Instructional Materials.

(a) Oral and written public comment, whenever submitted, addressing the content of instructional materials should specifically identify the instructional material and page number where the subject content appears and, if pertinent, provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards and, if pertinent, suggest a correction to the identified problem.

(b) Any written comment from a member of the public regarding the content of instructional materials that is received by the Executive Director of the Curriculum Commission not less than 14 days prior to the first date set for review panel deliberations in the Schedule of Significant Events, will be distributed to the review panel that is reviewing the instructional material that is the subject of the comment not less than 7 days before the first day of deliberations. Notice of these deadlines, and the Executive Director's mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs on the date when instructional materials being submitted for adoption are to be delivered to the LRDCs.

(c) Nothing in this section shall restrict a member of the public from directly addressing a state body, orally or in writing, at any publicly-noticed meeting relating to the adoption of instructional materials.

(d) During each day of deliberations there shall be at least two opportunities for public comment.

NOTE: Authority cited: Sections 33013, 60005 and 60206, Education Code. Reference: Sections 60200 and 60202, Education Code; Section 11125.7, Government Code.

HISTORY

1. New section adopted by the Department of Education on 12-5-94. New section submitted to OAL for printing only on 12-6-94, effective 12-30-94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-3-2008; operative 4-2-2008 (Register 2008, No. 10).

§ 9522. Presentation of Public Testimony.

At or before any public meeting related to the evaluation or adoption of a curriculum framework, evaluation criteria, or instructional materials, at which oral comments from the public are to be received, the chairperson or presiding member of the hearing body shall determine the total amount of time that will be devoted to hearing oral comments, and may determine the time to be allotted to each person or to each side of an issue.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200, Education Code; Section 11125.7, Government Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9523. Display of Instructional Materials for Public Inspection.

(a) On or before the delivery date designated in the Schedule of Significant Events, publishers shall send instructional materials that are being submitted for adoption to LRDCs at the addresses indicated in the Invitation to Submit. Instructional materials that are submitted for adoption shall be displayed at the LRDCs at least until the date the SBE adopts instructional materials.

(b) Beginning with the first adoption that takes place after the Reading/Language Arts adoption that is currently scheduled to be completed in November 2008, on or before the delivery date designated in the schedule of significant events, publishers shall also provide CDE with a URL to those instructional materials intended for student use that are being submitted for adoption, and the CDE shall post on its website direct hyperlinks to the URLs provided by the publishers. The instructional materials posted on each publisher's website shall be identical to the hard copy version of the instructional materials submitted for adoption, except that copyrighted items that do not allow for posting online may be omitted and replaced by a description of the omitted item, and any online features that are absent from the hard copy version shall be identified.

(c) LRDCs shall ensure that instructional materials received are on display within three weeks after the date of receipt unless circumstances beyond the control of the LRDC prevent such display, in which case the instructional materials will be displayed within a reasonable amount of time.

(d) Instructional materials adopted by the SBE shall be available at LRDCs for a minimum of two years after the date of adoption.

NOTE: Authority cited: Sections 33031 and 60005, Education Code. Reference: Sections 60202 and 60200(h), Education Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9524. Public Meetings Held by the Curriculum Commission and the State Board of Education Regarding Instructional Materials.

(a) Prior to recommending instructional materials to the SBE for adoption, the Curriculum Commission shall do the following:

(1) Not more than 30 days after the issuance of the IMR/CRE Report of Findings, the Curriculum Commission shall hold a publicly-noticed meeting during which any interested party may provide the Curriculum Commission with written or oral comments regarding the submitted instructional materials and/or the recommendations contained in the IMR/CRE Report of Findings. The primary purpose of this publicly-noticed meeting is to afford the Curriculum Commission an opportunity to receive comment from those who disagree with any part of the IMR/CRE Report of Findings. The complaining party, and any interested party adverse to the complaining party, shall be provided a full and fair opportunity to present comments.

(2) Nothing in this section shall prevent the Curriculum Commission from having additional publicly-noticed meetings that the Curriculum Commission deems necessary to receive additional input from members of the public or to utilize IMRs, CREs or other content experts as provided for in section 9519(j).

(3) Curriculum Commissioners must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria, and social content standards

(4) Not less than 30 days after the Curriculum Commission meeting discussed in subdivision (a)(1) above, the Curriculum Commission will hold a publicly-noticed meeting at which time it will adopt its recommendations to the SBE regarding instructional materials, and edits and corrections. To adopt its recommendations, the Curriculum Commission must conduct a roll call vote with at least 9 affirmative votes required for the recommendations, or at least 10 affirmative votes required for the recommendations when all 18 commissioners vote.

(5) The Curriculum Commission's recommendations shall be compiled into a document titled "Curriculum Commission Advisory Report." Those recommendations may be different than those of the review panels as contained in the IMR/CRE Report of Findings. The Curriculum Commission shall not recommend rewrites of instructional materials. The Curriculum Commission Advisory Report shall be presented to the SBE along with the IMR/CRE Report of Findings.

(b) Following the Curriculum Commission meetings described above, the SBE will hold at least one publicly-noticed meeting before adopting both instructional materials and edits and corrections and issuing its Adoption Report.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200, 60203 and 60204, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9525. Post Adoption Edits and Corrections Procedures.

(a) Following the action of the SBE on a specific instructional materials adoption, CDE staff will notify publishers, in writing, of any edits and corrections adopted by the SBE.

(b) Within 60 days of the SBE adopting instructional materials and edits and corrections, publishers shall provide to the CDE copies of revised instructional materials, or relevant portions thereof, that reflect all edits and corrections required by the SBE. If the publisher can show that circumstances beyond its control prevented it from delivering the revised instructional materials within the 60 day period, the CDE may grant a reasonable extension to the publisher.

(c) CDE staff will schedule individual meetings with each publisher to discuss edits and corrections, at which time publishers will be provided an opportunity to show that the adopted edits and corrections have been made to the revised instructional materials.

(d) Under direction from the SBE, CDE staff may work with Curriculum Commissioners or CREs to evaluate whether publishers have made the adopted edits and corrections to their revised instructional materials.

(e) Upon completion of this evaluation, CDE staff will notify each publisher whether the revised instructional materials comply with the SBE's action or whether additional revisions need to be made. Within 60 days of this notification, publishers shall provide to the CDE copies of final printed instructional materials that reflect all edits and corrections required by the SBE. If the publisher can show that circumstances beyond its control prevented it from delivering final printed instructional materials within the 60 day period, the CDE may grant a reasonable extension to the publisher.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200, Education Code.

HISTORY

1. New section filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

Article 2.1. Acquisition of Adopted Instructional Materials

§ 9527. Free Instructional Materials.

(a) In order to comply with the statutory requirement that publishers provide any instructional materials free of charge in this state to the same extent as that received by any state or school district in the United States,

publishers shall post on their website a list of any free instructional materials that they have agreed to provide to a county office of education, district board, elementary school, middle school or high school within 10 days of entering into such an agreement. Publishers shall maintain this list on their websites through the next biennial price adjustment referenced in Education Code section 60223, at which time the statutory requirement regarding the instructional materials on the list shall end.

(b) The publisher shall provide the CDE with the URL to their list of free instructional materials, and the CDE shall post on its website a direct hyperlink to the URL provided by the publisher.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60061, Education Code.

HISTORY

1. New Article 2.2 (sections 9527–9530) and section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Repealer of article 2.2 heading, relocation and amendment of article 2.1 heading from section 9515 to section 9527, repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9528. Alternate Formats of Adopted Instructional Materials.

(a) Publishers may submit alternate formats of adopted instructional materials to the CDE for approval at any time during the period of adoption.

(b) Alternate formats of adopted instructional materials shall include:

- (1) instructional materials that are identical in content to adopted instructional materials, but that are different in physical format, and
- (2) translations of adopted instructional materials into other languages. Translations of adopted instructional materials into other languages may include different literary selections that are equivalent in content to those contained in the English version.

(c) Submissions of alternate formats shall be reviewed as follows:

(1) For approval of an alternate physical format, the CDE staff will review submitted materials to confirm that the content is identical to the adopted instructional materials.

(2) For approval of alternate formats in languages other than English, the CDE will employ qualified CDE staff or contract with experts in the alternate language to review the materials to confirm that the translation is accurate and to determine if the materials are equivalent in content to the adopted instructional materials. Different literary selections must be approved by the SBE.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60222, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Amendment filed 2–27–97; operative 3–29–97 (Register 97, No. 9).
3. Repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9529. New Editions of Adopted Instructional Materials.

(a) Upon written request by a publisher, the CDE may approve a new edition of an adopted instructional material to replace the original adopted edition, provided that:

(1) Changes contained in the new edition are so minimal that both the new edition and the original adopted edition may be used together in a classroom environment. No additional content may be included in the new edition

(2) All changes comply with the social content standards set forth in the publication entitled Standards for Evaluating Instructional Materials for Social Content, 2000, as referenced in section 9518 above. The price of the new edition is equal to or lower than the price of the original adopted edition.

(b) Upgrades of technology-based materials that do not contain content changes can be made by publishers without CDE approval, unless the upgrade results in a new ISBN or identifier.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60040–60044, 60061, 60222 and 60223, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

§ 9530. School District Ordering of Instructional Materials.

Each school district shall purchase adopted instructional materials directly from publishers. With respect to the purchase of adopted instructional materials by a school district, the publisher shall comply with the following requirements:

(a) Instructional materials furnished and delivered to the school district by the publisher shall conform to and be of the same quality of workmanship as the instructional materials submitted for adoption.

(b) Upon request by any school district, a publisher shall provide a copy of any manufacturing standards and specifications for instructional materials with which the publisher is currently in compliance.

(c) Should the publisher discontinue an instructional material before its adoption expiration date, upon receipt of a written request from a district that has purchased the discontinued instructional materials, the publisher shall buy back from the school district all of the instructional materials discontinued and any instructional materials designed to be used with the discontinued instructional material. The publisher shall buy back the instructional materials at the price in effect pursuant to the purchase order or agreement at the time when the instructional materials were purchased.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60061 and 60061.5, Education Code.

HISTORY

1. New section adopted by the Department of Education on 12–5–94. New section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).
2. Repealer and new section and amendment of NOTE filed 3–3–2008; operative 4–2–2008 (Register 2008, No. 10).

Article 2.3. Instructional Materials Funding

§ 9531. Instructional Materials Funding Realignment Program: Expenditure Policy Percentages and 24 Month Purchasing Requirement.

(a) As much of the allocation, as is necessary, from the Instructional Materials Funding Realignment Program (IMFRP) annual appropriation to local education agencies must be spent to purchase textbooks or basic instructional materials adopted subsequent to the adoption of content standards (Education Code Section 60605) for each pupil, in reading/language arts, mathematics, history–social science, and science.

(1) For kindergarten and grades 1 to 8 this shall be textbooks or basic instructional materials adopted by the State Board of Education (SBE) pursuant to Education Code Section 60200 inclusive.

(2) For grades 9 to 12, this shall be textbooks or instructional materials adopted by the local governing board pursuant to Education Code Section 60400.

(b) For purposes of the hearing requirement specified by Education Code Section 60119, textbooks or instructional materials used in kindergarten and grades 1 to 8 shall be considered “consistent with the content and cycles of the curriculum framework adopted by the state board” if students are provided textbooks or instructional materials from the most recent SBE adoption by the beginning of the first school term that commences no later than 24 months after those materials are adopted by the SBE pursuant to Education Code Section 60422. The requirements of this subdivision apply to the determination of whether textbooks or

instructional materials are current, and not to the determination of sufficiency under Education Code Section 60119(c). This definition of currency applies to textbooks or instructional materials that have been the subject of a state board adoption made on or after January 1, 2003.

(c) For purposes of subdivision (b) and Education Code Section 60422(a), the reference to adoption of textbooks or basic instructional materials by the SBE shall refer to a primary adoption, which is the first adoption after the adoption of evaluation criteria by the SBE. A primary adoption is distinguished from a follow-up adoption, which is the second adoption of textbooks or basic instructional materials conducted by the SBE using the same evaluation criteria. Textbooks and basic instructional materials adopted in a follow-up adoption are added to the then-existing list of adopted textbooks and basic instructional materials for a subject area, and the period of adoption for those materials is the remaining time of the list for the primary adoption.

NOTE: Authority cited: Sections 33031 and 60005, Education Code. Reference: Sections 60040–60045, 60048, 60119, 60200, 60242, 60242.5, 60400, 60421, 60422 and 60605, Education Code.

HISTORY

1. New article 2.3 (sections 9531–9532) and section filed 1–16–2003 as an emergency; operative 1–16–2003 (Register 2003, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–16–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–16–2003 order, including amendment of subsection (a)(3) and NOTE, transmitted to OAL 5–12–2003 and filed 6–16–2003 (Register 2003, No. 25).
3. Amendment of section and NOTE filed 6–8–2005; operative 6–8–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 9532. School District or Charter School in its First Year of Operation or of Expanding Grade Levels at a School Site.

(a)(1) In order to be eligible to receive funding pursuant to Education Code section 60421 and consistent with Education Code section 47652, in the current fiscal year, a charter school in its first year of operation must commence operation on or before September 30 of that fiscal year. A charter school in its first year of operation that begins operations after September 30 of the current fiscal year shall not be eligible to receive instructional materials funding until the following fiscal year.

(2) For the purposes of this section and Education Code section 60421, “operation” shall be defined as providing instruction to pupils enrolled in the charter school.

(3) For purposes of receiving funding pursuant to Education Code section 60421, and consistent with Education Code section 35534, except as provided in Education Code sections 35535 and 35536, the first year of operation of a school district shall be July 1 of the calendar year following the calendar year in which the school district reorganization action is completed.

(b)(1) For the purposes of Education Code section 60421, “expanding grade levels” shall be defined as additional grades in the current fiscal year that did not exist as a school site of the school district or charter school in the prior fiscal year. For charter schools that operate multiple sites, expanding grade levels shall also only include any additional grades that did not exist in the prior fiscal year when considering all of the individual or satellite sites of the charter school in aggregate. If any one site of a charter school with multiple sites provides instruction to pupils in a particular grade level, then that grade level shall not be included in expanding grade levels.

(2) In order to receive funding pursuant to Education Code section 60421, the provision of instruction to pupils enrolled in the expanding grade levels at a school site of the school district or charter school shall commence on or before September 30 of the current fiscal year. A school site of the school district or charter school that commences instruction in its expanding grade levels after September 30 of the current fiscal year shall not be eligible to receive funding until the following fiscal year.

(c) For the purposes of this section and Education Code section 60421, “school site” shall be defined as a school with a separate County/District/School (CDS) code, as maintained by the Superintendent of Public

Instruction as of September 30 of the current fiscal year. Charter schools operating multiple school sites under one charter number provided by the SBE and one CDS code shall be considered one school site.

(d) A school district or charter school in its first year of operation or of expanding grade levels at a school site shall provide enrollment estimates to the California Department of Education by September 30 of the current fiscal year in order for the school district or charter school to receive funding in that fiscal year. The enrollment estimates shall be certified by the school district governing board or the charter school’s charter-granting local educational agency (LEA), as appropriate, and the county office of education in which the school district or charter school’s charter granting LEA is located. These enrollment estimates and the associated funding shall be adjusted for actual enrollment as reported by the California Basic Education Data System for the current fiscal year.

NOTE: Authority cited: Sections 33031 and 60005, Education Code. Reference: Sections 47652 and 60421, Education Code.

HISTORY

1. New section filed 1–16–2003 as an emergency; operative 1–16–2003 (Register 2003, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–16–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–16–2003 order transmitted to OAL 5–12–2003 and filed 6–16–2003 (Register 2003, No. 25).

Article 3. Request to Purchase Nonadopted Core Reading Program Instructional Materials

§ 9535. Request to Purchase Nonadopted Core Reading Program Instructional Materials.

If, in the judgment of the governing board of a school district or a county office of education, none of the instructional materials adopted by the California State Board of Education in 1996 promotes the maximum efficiency of pupil learning in that local educational agency’s core reading program, and if that governing board desires to purchase non-adopted materials with the funds apportioned to it pursuant to Education Code section 60351, it shall request authorization to do so from the California State Board of Education. The request shall include all of the following:

(a) An overview of the goals and objectives of the local educational agency’s core reading program for kindergarten and grades 1 to 3, inclusive, including a statement about how the goals and objectives were developed and a description of their consistency with “Teaching Reading: A Balanced, Comprehensive Approach to Teaching Reading in Prekindergarten Through Grade Three” (Reading Program Advisory), jointly approved by the State Superintendent of Public Instruction, California State Board of Education, and the California Commission on Teacher Credentialing, and published by the California Department of Education in 1996.

(b) A list of the core reading program instructional materials proposed to be purchased, including titles of individual curricular units, literature, and technology resources.

(c) An analysis of the proposed materials, describing the strengths and weaknesses of the materials, including the local educational agency’s rubrics, criteria, and standards used to evaluate the materials for consistency with the requirements of this section, including, in particular, subdivisions (j) and (k).

(d) A description of the process by which the proposed materials were evaluated and selected by the local educational agency.

(e) A description of the local educational agency’s plans for staff development for teachers regarding the use of the proposed materials.

(f) A description of how the proposed materials will be used by the local educational agency’s teachers.

(g) A description of the projected timeline for the purchase of the proposed materials.

(h) A description of the process used for public display of the proposed materials by the local educational agency, with a statement of assurance from the local educational agency that the materials have been or will be on public display for at least 30 days prior to their purchase, with all comments received during the display period being made part of the official records of the local educational agency's governing board.

(i) A statement of assurance from the local educational agency that the proposed materials are for use in kindergarten or any of grades 1 to 3, inclusive.

(j) A statement of assurance from the local educational agency that the proposed materials are based on the fundamental skills required by reading, including, but not limited to, systematic, explicit phonics and spelling, within the meaning of Education Code section 60200.4.

(k) A statement of assurance from the local educational agency that the proposed materials include, but are not necessarily limited to, phonemic awareness, systematic explicit phonics, and spelling patterns, accompanied by reading materials that provide practice in the lesson being taught, within the meaning of Education Code section 60352(d).

(l) Evidence that the local educational agency's governing board:

(1) Formally approved the authorization request at a properly noticed public meeting.

(2) Supports the use of the specified funds for the purpose expressed in the request.

(3) Verified that the local educational agency considered the California State Board of Education adopted materials for its core reading program and considered the reasons given by the California State Board of Education for not adopting the materials proposed for purchase, if those materials were submitted for adoption in 1996.

(4) Verified that the proposed materials comply with Education Code sections 60040, 60041, 60042, 60044, 60045, and 60046.

(5) Verified that all statements of assurance included within the request for authorization are true and correct.

If the request for authorization complies with subdivisions (a) to (l), inclusive, and establishes to the satisfaction of the California State Board of Education that none of the instructional materials adopted by the California State Board of Education in 1996 promotes the maximum efficiency of pupil learning in the applying local educational agency's core reading program, then the request for authorization shall be granted by the California State Board of Education.

NOTE: Authority cited: Sections 33031, 60206 and 60352(d), Education Code. Reference: Sections 60351 and 60352(d), Education Code.

HISTORY

1. New article 3 (section 9535) and section filed 1-30-97 as an emergency; operative 1-30-97 (Register 97, No. 5). A Certificate of Compliance must be transmitted to OAL by 5-30-97 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 83, No. 25.
2. Repealed by operation of Government Code section 11346.1(g) (Register 97, No. 31).
3. New section filed 7-31-97; operative 7-31-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 31).

Article 4. Additions to Lists of Adopted Instructional Materials in Reading/Language Arts and Mathematics

§ 9540. Establishment of Policy.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200.1(a)(5), Education Code.

HISTORY

1. New article 4 (sections 9540-9550) and section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day. For prior history of article 4 (sections 9550-9551) and article 5 (sections 9560-9566), see Register 75, No. 40. For prior history of subchapter 2 (sections 9540-9583), see Register 75, No. 40 and Register 83, No. 25.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).

3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9541. Definitions.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60010(a), 60200.1(a)(5)(A) and 60605, Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of subsections (d) and (e), transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9542. Additional Submissions Allowed.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9543. Required Subject Matter Coverage and Basis in Standards.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of first paragraph, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9544. Instructional Materials Evaluation Criteria.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9545. Formal Action by the State Board.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200(b)(2) and 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section heading and section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9546. Prerequisites to Formal Action by the State Board.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200(c)(3) and (4), 60200.1(a)(5), 60200.4, 60200.5, 60202 and 60203, Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 11-2-98 order, including amendment of section heading and section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9547. Period of Adoption.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9548. Evaluation Criteria Development.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200.1(a)(5) and 60204(b), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9549. Review Process.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200.1(a)(5) and 60204, Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 9550. Invitation to Submit.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200.1(a)(5), Education Code.

HISTORY

1. New section filed 11-2-98 as an emergency; operative 11-2-98 (Register 98, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-2-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11-2-98 order, including amendment of section, transmitted to OAL 3-2-99 and filed 4-13-99 (Register 99, No. 16).
3. Change without regulatory effect repealing section filed 2-9-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

Chapter 10. Courses of Study

Subchapter 1. High School Courses of Study

Article 1. Automobile Driver Education

§ 10020. General Provisions.

This article governs the establishment, conduct, and scope of, and establishes standards for, automobile driver education in high schools, except evening high schools.

“Automobile driver education” is classroom instruction described in Education Code Section 51220(j).

(a) A course in automobile driver education shall include instruction in the following areas:

- (1) Driving is your responsibility.
- (2) Major causes of accidents.
- (3) The driver.
- (4) Natural forces affecting driving.
- (5) Signs, signals, and highway markings, and highway design features which require understanding for safe operation of motor vehicles.
- (6) California Vehicle Code, rules of the road, and other state laws and local motor vehicle laws and ordinances.
- (7) Differences in characteristics of urban and rural driving including safe use of modern expressways.
- (8) Critical vehicle systems and subsystems requiring preventive maintenance.
- (9) Pedestrian safety.
- (10) Effects of alcohol and drugs.
- (11) Motorcycle safety.

(b) If an allowance will be claimed for the laboratory phase of driver education based upon the driver education course, the course shall meet the requirements of Section 10044(a) and Education Code Sections 41906, 41907 and 51851.

(c) If an allowance described in (b) will not be claimed, the course may be taught by an instructor who holds a credential authorizing the holder to teach in all grades, 10, 11, and 12. In all other respects, the course shall meet the requirements of this article and of Education Code Section 51851.

NOTE: Authority cited: Section 51054, Education Code. Reference: Section 51054, Education Code.

HISTORY

1. Amendment of subsection (a) filed 9-24-71; effective thirtieth day thereafter (Register 71, No. 39).
2. Amendment of subsections (b) and (c) filed 7-21-72; effective thirtieth day thereafter (Register 72, No. 30).
3. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer of Article 1 (Sections 10000-10001) and renumbering of Article 2 (Section 10020) to Article 1 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).

Article 2. Automobile Driver Training

§ 10040. General Provisions.

This article governs the establishment, conduct, and scope of, and establishes standards for the laboratory phase of driver education in high schools, except evening high schools.

The laboratory phase of driver education is instruction in driving motor vehicles through the actual use of automobile simulators, and multi-car off-street driving ranges, for the purpose of developing the knowledge, attitude, habits, and skills necessary for the safe operation of motor vehicles, with additional emphasis in:

- (a) The vehicle, highway and community features:
 - (1) That aid the driver in avoiding crashes
 - (2) That protect him and his passengers in crashes
 - (3) That maximize the salvage of the injured.

(b) Basic and advanced driving techniques including techniques for handling emergencies.

NOTE: Authority cited: Section 51054, Education Code. Reference: Section 51054, Education Code.

HISTORY

1. Amendment filed 9-24-71; effective thirtieth day thereafter (Register 71, No. 39).
2. Amendment filed 7-21-72; effective thirtieth day thereafter (Register 72, No. 30).
3. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Renumbering of Article 3 (Sections 10040-10044) to Article 2 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 10041. Standards of Pupil Eligibility.

(a) Only those pupils may receive instruction in the laboratory-phase of driver education who hold a valid student license issued by school au-

thorities, meet the age and other requirements of Education Code Section 51850 and come within regulations adopted by the governing board under that section, and meet physical and mental qualifications as specified in Vehicle Code Section 12804. Screening examinations shall include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of the student license under the Vehicle Code. Screening examinations shall be subject to the provisions of Sections 590, 591, 592, and 593 of this title and of Section 49452 of the Education Code.

(b) Districts shall include in the regulations adopted by the local governing board provisions to determine who can profit by and who shall receive instruction in the laboratory-phase of driver education.

(c) In addition, all districts shall include in the regulations a provision that the student and his parent or guardian shall signify that the student will utilize his training through parental/student activities directed to licensing within six months after the course shall have been completed.

(d) Students who have satisfactorily completed the laboratory-phase of driver education and who repeat the course shall not be included for excess cost reimbursement pursuant to Education Code Section 41304(b).

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 74, No. 48.

§ 10042. Standards for Automobiles Used.

(a) Equipment. An automobile used for the laboratory phase of driver education shall at all times have the following equipment:

(1) Dual controls of a type approved by the California State Department of Education. American Automobile Association dual controls and those of similar specifications are approved.

(2) Seat belts that conform to the requirements of Motor Vehicle Code Section 27304.

(3) Outside rear-view mirrors for the driver's side and for the right-hand front seat.

(4) Heaters and ventilators as needed for the protection of health of the students and teachers.

(5) Tire chains, if the automobile is being used under conditions where the Department of Public Works requires them or where local police or the Highway Patrol recommend them.

(6) First-aid kits, safety flares, and either reflectors or a flashing light warning system, all maintained in good condition, and readily accessible.

(7) Appropriate tools and minor replacements for emergency repairs.

(8) A spare tire.

[The next page is 117.]



(b) Identification. Some means shall be used to identify the automobile with the laboratory phase of driver education. The name of a lender of an automobile may be placed, on a single line only and only once, on each side and the rear of the automobile in letters not exceeding one and one-half (1 1/2) inches in height.

(c) Maintenance. An automobile used in the laboratory phase of driver education shall receive protective maintenance and repairs in accordance with recommendations of the manufacturer. Maintenance records shall be kept for it.

(d) Safety Check. A complete safety check, as recommended by the manufacturer, shall be completed on each automobile used in the laboratory phase of driver education at least once each semester by a competent and qualified mechanic to insure it is in a safe operating condition.

(e) Replacement. An automobile used in the laboratory phase of driver education shall be replaced when it cannot be maintained to meet maximum safety standards.

(f) Restricted Use. A loaned or leased automobile used in the laboratory phase of driver education shall be used only for the laboratory phase of driver education.

The driver education identification of a district owned automobile shall be removed or covered whenever the automobile is used for other purposes. The cost of such other use is not reimbursable.

HISTORY

1. Amendment of subsection (a)(5) filed 10-10-69; effective thirtieth day thereafter (Register 69, No. 41).
2. Amendment filed 7-21-72; effective thirtieth day thereafter (Register 72, No. 30).

§ 10043. Standards for Laboratory Phase of Driver Education.

(a) In any laboratory phase of driver education, no pupil shall receive more than two hours of classroom driver education nor more than four hours of laboratory phase of driver education (including observation time) during any 24-hour period. The driver training shall be composed of no more than two hours of simulator training and no more than two hours of behind-the-wheel training, including observation time, during any 24-hour period.

(b) Districts offering the laboratory phase of driver education through competency-based driver training shall develop an annual plan which describes the district's program requirements to assure that all students receive instruction based on assessed individual needs in order to meet a common level of program performance criteria. The plan shall include, but shall not be limited to, the following elements:

(1) The following basic driving skills and the measurement criteria to be used to ensure that students have gained acceptable skill in performing each of them:

- (A) Pre-driving activities
 1. Safety check outside car
 - a. Tire condition
 - b. Trunk (spare tire, jack, etc.)
 - c. Hood properly closed
 2. Safety check inside car
 - a. Seat adjustment
 - b. Mirror adjustment
 - c. Doors locked
 - d. Seat belts fastened
 3. Auxiliary equipment
 - a. Headlights and dimmer switch
 - b. Instrument panel lights
 - c. Windshield wipers
 - d. Defroster
- (B) Starting
 1. Foot on brake
 2. Parking brake
 3. Blind spot check

- (C) Moving car
 1. Blind spot check
 2. Driving straight
 3. Steering
 4. Speed control
 5. Stopping car
 6. Clutch and gear use
 7. Right of way
- (D) Turning skills
 1. Curb pullout
 2. Left and right turns
 3. Mirror use
 4. Position in lane
 5. Over/understeering
 6. Speed control
- (E) Lane changing
 1. Blind spots
 2. Signaling
 3. Changing one lane at a time
 4. Speed control
 5. Traffic
- (F) Intersections
 1. Blind
 2. 4-way
 3. Railroad crossings
- (G) Skilled turning maneuvers
 1. U-turns
 2. Backing
 3. Three-point turn/Y turns
- (H) Defensive driving
 1. Space cushion
 2. Hazard recognition
 3. Visual search
 4. Speed selection for conditions
- (I) Heavy traffic
 1. Exposure to heavy area traffic (freeway, highway, boulevard)
- (J) Secure car
 1. Parking brake
 2. Shift to park
 3. Lock doors
 4. Setting wheels and controls
- (2) A minimum student training period (in minutes) required to successfully complete the competency-based driver training program.
- (3) Successful completion, by each competency-based driver training student, in at least one of the following types of instruction:
 - (A) A minimum of four hours of on-street behind-the-wheel driving instruction in a dual control automobile with a qualified instructor and eight hours in conjunction with the behind-the-wheel instruction for the purpose of observation. A minimum of twenty minutes of this time shall be devoted to a behind-the-wheel evaluation, or
 - (B) A minimum of six hours of instruction in a driving simulator approved by the department. Two hours of on-street behind the wheel driving instruction in a dual-control automobile with a qualified instructor and four hours in conjunction with the behind-the-wheel instruction for the purpose of observation. A minimum of twenty minutes of this time shall be devoted to a behind-the-wheel evaluation, or
 - (C) A minimum of six hours of instruction by a qualified instructor on an off-street multiple-car driving range consisting of street registered automobiles approved by the department. Two hours of on-street behind-the-wheel driving instruction in a dual-control automobile with a qualified instructor and four hours in conjunction with the behind-the-wheel instruction for the purpose of observation. A minimum of twenty minutes of this time shall be devoted to a behind-the-wheel evaluation, or
 - (D) A minimum of six hours of instruction by a qualified instructor in combination in a driving simulator approved by the department and an

off-street multiple-car driving range consisting of street registered automobiles approved by the department. The governing board of the district shall establish the proportion of time to be utilized in simulators and on the off-street multiple-car driving range. The minimum time allocated shall include two hours of on-street behind-the-wheel driving instruction in a dual-control automobile with a qualified instructor and four hours in conjunction with the behind-the wheel instruction for the purpose of observation. A minimum of twenty minutes of this time shall be devoted to a behind-the-wheel evaluation.

(4) Procedures for parent participation through parent orientation activities, a supervised driving program, or other district-designed programs.

(5) Any special driving skills to be included in competency-based driver training plan that are required in order to meet local driving conditions.

NOTE: Authority cited: Section 51852(e), Education Code. Reference: Section 51852(e), Education Code.

HISTORY

1. Amendment filed 9-24-71; effective thirtieth day thereafter (Register 71, No. 39).
2. Amendment filed 7-21-72; effective thirtieth day thereafter (Register 72, No. 30).
3. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer of former Section 143 and renumbering of Section 10044 to Section 10043 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
5. Amendment filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

Article 3. Contracting for Automobile Driver Training

§ 10045. Scope.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. New Article 3.1 (§§ 10045-10049) filed 4-28-76; effective thirtieth day thereafter (Register 76, No. 18).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Article 3.1 (Sections 10045-10049) to Article 3 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
4. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10046. Approved Private Driver Training School.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10046.5. Application for Approval of Initial and Renewal Contract.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. New section filed 9-19-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10047. Approval of Contract.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. Repealer of section and new section filed 9-19-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10047.5. Grounds for Contract Disapproval or Termination.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. New section filed 9-19-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10047.6. Reconsideration of Disapproval or Termination.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. New section filed 9-19-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10048. Reimbursement.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. Repealer of section and new section filed 9-19-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

§ 10049. Reporting.

NOTE: Authority cited: Section 41913, Education Code. Reference: Section 41913, Education Code.

HISTORY

1. Repealer filed 8-20-87; operative 9-19-87 (Register 87, No. 35).

Article 3.1. Physical Education Program

§ 10060. Criteria for Physical Education Program.

Each school district shall appraise the quality of the physical education program in each senior or four-year high school of the district by the following criteria:

(a) The course of study provides for instruction in a developmental sequence in each of the following areas:

- (1) Effects of physical activity upon dynamic health.
- (2) Mechanics of body movement.
- (3) Aquatics.
- (4) Gymnastics and tumbling.
- (5) Individual and dual sports.
- (6) Rhythms and dance.
- (7) Team sports.
- (8) Combatives for boys.

(b) Assignment of pupils to physical education courses is made on the basis of individual needs including such factors as health status, skill development, and/or grade level.

(c) Instruction is provided for pupils with physical limitations including those with inadequate skill development and the physically underdeveloped. Physical performance tests as required by Section 1041 are used to identify physically underdeveloped pupils and to appraise the motor aspects of physical fitness.

(d) Each course includes activities of a vigorous nature adapted to individual capacities, and designed to permit maximum development of each individual pupil.

(e) Each class period includes the teaching of the fundamentals and techniques of each instructional area conducted during that period.

(f) Class size is consistent with the requirements of good instruction and safety.

(g) Reporting of pupil achievement is based upon all of the following:

(1) Evaluation of the pupil's individual progress and the measure of his attainment of the goals specified in each area of instruction listed in subsection (a) of this section.

(2) Tests designed to determine skill and knowledge.

(3) Physical performance tests.

(4) Any other evaluation procedures required by local governing board regulations.

(h) Teaching stations are of sufficient number and suitability to provide instruction in activities conducted under subsection (a) of this section.

(i) Supplies and equipment of sufficient quantity and quality are provided to allow active participation of each pupil throughout the class period.

NOTE: Authority cited: Section 51054, Education Code. Reference: Section 51054, Education Code.

HISTORY

1. New NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Renumbering of Article 4 (Section 10060) to Article 3.1 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

Article 4. Work Experience Education

§ 10070. District Plan for Work Experience Education.

Secondary school districts conducting Work Experience Education shall develop a plan in a form prescribed by the State Department of Education in accordance with the standards described in this article.

NOTE: Authority cited: Section 51762, Education Code. Reference: Sections 46300(b) and 51762.5(d), Education Code.

HISTORY

1. Repealer of Article 4 (Sections 10070–10078) and new Article 4 (Sections 10070–10075) filed 4–21–86; effective thirtieth day thereafter (Register 86, No. 17). For prior history, see Registers 79, No. 45; 77, No. 39; and 76, Nos. 40 and 12.

§ 10071. Formal Training Agreements for Each Type of Work Experience Education.

Work Experience Education shall consist of one or more of the following paid and unpaid types of on-the-job experiences which the secondary school district may offer through a formal training agreement with each employer. The written agreement shall identify the responsibilities of the student, employer, parent or guardian (with respect to minors only) and the secondary school district shall outline the objectives that the student is to accomplish at the training site:

(a) Vocational work experience education. Vocational Work Experience Education has as its purpose the reinforcement and extension of vocational learning opportunities for students through a combination of related classroom instruction in Work Experience Education and supervised paid employment in the occupation for which their vocational course in school prepares them.

(b) General work experience education. General Work Experience Education is an instructional course which has as its purpose the application of basic skills of reading, writing and computation. General Work Experience Education students will acquire general and specific occupational skills through a combination of a supervised paid employment in any occupational field and related classroom instruction in Work Experience Education.

(c) Exploratory work experience education. Exploratory Work Experience Education is nonpaid and has as its general purpose the vocational guidance of the students by affording them opportunities to observe and sample systematically a variety of conditions of work for the purpose of ascertaining their interest and suitability for the occupation they are exploring. Exploratory Work Experience Education includes a combination of job observations and related classroom instruction in Work Experience Education. The student may be required to perform, on a limited, periodic and sampling basis, nonpaid work activities while exploring the occupation. The employer or work station supervisor may but shall not be required to teach production or other job skills to the Exploratory Work Experience Education student. The length of exploratory assignments may vary, depending on the aptitude of the student, the occupation being explored, the facilities of the work station, and the job classification. A student may not be a part of Exploratory Work Experience Education if pay is received for like work at the same work station or similar job during hours when not assigned as an Exploratory Work Experience Education student. The student shall not replace a paid employee. The district shall provide Worker's Compensation Insurance for the student.

A secondary school student in Exploratory Work Experience Education may be less than 16 years of age.

NOTE: Authority cited: Section 51762, Education Code. Reference: Sections 51760(a), 51760.3(b), 51762.5(b), 51762.5(d), 51762.5(e) and 51764, Education Code.

§ 10072. Selection and Approval of Work Stations.

In selecting and approving a work station for an individual student, the Work Experience Education–Coordinator shall approve work stations that will enable the student to accomplish meaningful learning objectives.

NOTE: Authority cited: Section 51762, Education Code. Reference: Section 51762.5(a), Education Code.

§ 10073. Related Classroom Instruction.

The Work Experience Teacher–Coordinator shall conduct the related classroom instruction. Related classroom instruction shall be developed for each semester and type of Work Experience Education offered, including units in appropriate scope and sequence.

NOTE: Authority cited: Section 51762, Education Code. Reference: Section 51762.5, Education Code.

§ 10074. Supervision of Students.

In carrying out the district plan for Work Experience Education, the Teacher–Coordinator shall provide for supervision of students by preparing individual training plans, observing and consulting with students, and making a minimum of two on-site contacts per semester with each work station supervisor and a minimum of one on-site contact during summer school to evaluate student performance.

NOTE: Authority cited: Section 51762, Education Code. Reference: Section 51762.5(c), Education Code.

§ 10075. Work Experience Education Teacher–Coordinator Minimum Qualifications.

The Work Experience Education Teacher–Coordinator shall possess a valid California secondary-level credential, have two years of occupational experience outside the field of education, and have knowledge of the educational purposes, standards, laws and rules and regulations applicable to Work Experience Education.

NOTE: Authority cited: Section 51762, Education Code. Reference: Sections 46300(b), 51762, 51762.5, Education Code.

Article 5. Community Classrooms

§ 10080. Definition.

(a) "Community Classroom" is an instructional methodology which utilizes unpaid on-the-job training experiences at business, industry, and public agency sites to assist students in acquiring those competencies (skills, knowledge, and attitudes) necessary to acquire entry-level employment. The intent of the community classroom methodology is to provide additional resources so concurrent, formalized classroom instruction can be extended and the acquisition of salable skills enhanced.

(b) "Competency" means the prescribed performance level for a skill, knowledge, and attitude necessary to accomplish a job task.

(c) "Formal Vocational Instruction" means instruction provided by a qualified teacher, utilizing a lesson plan, to a group of students in a classroom.

(d) "Related Classroom Instruction" means formal vocational instruction which is correlated with unpaid on-the-job training experiences.

(e) "Community Classroom Teacher" is the certificated vocational education instructor, employed by the local educational agency operating a community classroom instruction, conducts the required visitations to on-the-job training stations, and verifies student acquisition of competencies identified in the training plan.

(f) "Community Classroom Joint Venture Training Agreement" is a written document which describes the conditions and requirements to be met by the local educational agency and management of the community classroom in the utilization of business, industry, and public agency resources for vocational instruction.

(g) "The Management of the Community Classroom" is the owner or designated employee(s), representing the entity offering its resources for vocational instruction, who assists the local educational agency in the operation of community classroom.

(h) "Community Classroom Individualized Training Plan" is a written document which identifies those competencies the student will acquire through vocational classroom instruction and unpaid on-the-job training experiences.

(i) "Concurrent Classroom Instruction" means classroom instruction and unpaid on-the-job training experiences are being conducted together within the same time frame (quarter, semester, program year, etc.).

(j) "Approved Vocational Education Course/Program" means the State Department of Education has approved the vocational education course/program by either signing a ROC/P Course Approval Application (Form VE-77) or local educational agency Program Inventory (Form VE-30).

(k) "Community Classroom Training Station" is the business/industry or public agency location where the student receives his/her unpaid on-the-job training experiences.

(l) "Methodology" means a technique or procedure used for teaching students skills.

(m) "Supervision/Coordination" are those activities performed by the community classroom teacher, usually outside of the classroom, that include but are not limited to advisory committee operation, program promotion, recruitment, selection of training stations, training plan development, relating in-school instruction to unpaid on-the-job training, on-the-job student/employer visitations, and evaluation of student progress.

NOTE: Authority cited: Sections 52372 and 52372.1, Education Code. Reference: Section 52372.1, Education Code.

HISTORY

1. New Article 6 (Sections 10090-10092) filed 4-18-75, effective thirtieth day thereafter (Register 75, No. 16).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Article 6 (Sections 10090-10092) to Article 5 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45). 4. Renumbering and amendment of former Section 10090 to Section 10080 filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10081. Academic Credit for Participation in Community Classroom.

Provision shall be made for evaluating and rating each student's achievement in Community Classroom. Credit shall be granted for the satisfactory completion of the following:

(a) Evaluation of participation in related classroom instruction which is the responsibility of the community classroom teacher.

(b) Evaluation of participation at the unpaid training station which is the responsibility of the community classroom teacher with the assistance of the management of the community classroom.

NOTE: Authority cited: Sections 52372 and 52372.1, Education Code. Reference: Section 52372.1(a)(7), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10082. Student Qualifications.

In order to qualify for participation in Community Classroom, an individual must be concurrently enrolled in the approved vocational education course/program.

NOTE: Authority cited: Sections 52372 and 52372.1, Education Code. Reference: Section 52372.1(a)(2) and (c), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10083. Teacher Responsibilities.

The community classroom teacher shall:

(a) Provide concurrent formal vocational classroom instruction. Instruction shall be based on skills, knowledges, attitudes, and related performance levels in the occupation for which instruction is conducted.

(b) Conduct required training station visits to observe students, provide instruction, and ensure that student acquisition of competencies identified in the individualized training plan is occurring.

(c) Prepare individualized training plans.

(d) Locate and select training stations to provide students unpaid on-the-job learning experiences commensurate with their skill training.

(e) Monitor the student's progress by completing the individualized training plan.

(f) Provide ongoing and final evaluation of the student's achievement of course instruction objectives.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Sections 46300(f), 52372.1(a)(1), (2), (3), (4), (c) and (d), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10084. Records.

The community classroom teacher shall keep on file, copies of the following records:

(a) Joint Venture Training Agreement.

(b) Individualized Training Plan.

(c) Community Classroom teacher unpaid training station visitations and community classroom site management consultations regarding student progress and training plan on-the-job experiences.

(d) Pupil's training hours from the management of the community classroom.

(e) Students assigned at community classroom sites including locations, duration of time, dates, and hours.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Sections 52372.1(a)(3), 52372.1(a)(4), (a)(6) and (d), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10085. Related Classroom Instruction.

(a) Formal related concurrent vocational classroom instruction shall be:

(1) Based on the skills, knowledges, attitudes, and related performance levels in the occupation for which training is conducted.

(2) Provided at a minimum equivalency of three instructional periods per week. An instructional period must equal at least 50 minutes. A minimum of one instructional period per week shall be scheduled and conducted.

(b) The curriculum for a vocational course/program, utilizing the community classroom methodology, shall identify how competencies necessary for employment will be taught through concurrent classroom instruction and be expanded through unpaid on-the-job training experiences.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Sections 52372.1(a)(2) and (c), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10086. Selection and Approval of Community Classroom Training Stations.

The following criteria shall be used to select and approve a community classroom training station:

(a) The management of the community classroom training station shall:

(1) Have a clear understanding of the community classroom methodology and a willingness to participate in the training experience.

(2) Cooperate with the vocational education director, or his/her designee, in preparing a written joint venture agreement.

(3) Participate with the community classroom teacher in preparing an individualized training plan.

(4) Provide and assist students with unpaid on-the-job training experiences as described in the individualized training plan.

(5) Consult with the community classroom teacher regarding the student's progress during the unpaid on-the-job training experiences.

(6) Assist in maintaining accurate records of the pupil's training hours.

(b) The training station shall offer training opportunities in the specific occupation for which the course is approved. Training opportunities at the station shall expand competencies developed in the classroom instruction portion of the student's training.

(c) The training station shall have adequate equipment, materials, and other resources to provide an appropriate learning opportunity.

(d) Training station conditions shall prevail which will not endanger the health, safety, welfare, or morals of the pupil.

(e) The training station shall be concurrently engaged in a business operation which requires employment in the occupation for which training is provided.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Sections 44806, 46300(f), 52372.1(a), (3), (4), (6) and (d), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10087. Community Classroom Joint Venture Training Agreements and Plans.

(a) A written joint venture training agreement shall be entered into between the director, or his/her designee, of the local educational agency and the management of the community classroom site.

(b) The community classroom teacher, in cooperation with the management of the community classroom site, shall prepare an individualized training plan for each pupil to include, but not be limited to, the following:

(1) Competencies to be included in the instructional objectives of the approved course/program.

(2) Expected duration of training for competencies necessary for employment.

(3) Identification of competencies to be taught in either related classroom instruction and/or the unpaid training station.

(4) Verification that the student has acquired the competency demonstrating a proficiency equivalent to entry-level employment. A copy of the community classroom training plan shall be maintained at the community classroom training station.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Section 52372.1(a)(4) and (d), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10088. Supervision of Students.

(a) The community classroom teacher shall make at least one visitation every 3 weeks to consult with the management of the community classroom, observe students at the training station, provide instruction, and ensure that student acquisition of competencies identified in the individualized training plan is occurring.

Each visitation shall include an observation of the student engaged in unpaid on-the-job training experiences.

(b) The community classroom teacher shall be provided time for supervision/coordination equivalent to one hour per week for every five community classroom students enrolled. When less than five students are enrolled, a minimum of one hour per week of supervision/coordination time shall be provided.

(c) Only the community classroom teacher who provides related classroom instruction shall provide supervision/coordination for the unpaid on-the-job training of students.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Section 52372.1(a)(2) and (a)(3), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10089. Student-Teacher Ratio.

(a) The maximum number of students per vocational education course section utilizing the community classroom and/or cooperative vocational education methodology shall not exceed 30 at any time.

(b) The maximum number of students assigned to a vocational education instructor, utilizing the community classroom and/or cooperative

vocational education methodology, including both related classroom instruction and supervision/coordination, shall not exceed 75 at any time.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Section 52372.1(a)(5), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10090. Unpaid On-the-Job Experiences.

(a) The unpaid on-the-job training element of the program shall not:

(1) Provide the management of the community classroom site with an immediate benefit.

(2) Allow a student to replace an employee of the community classroom site or cause the employee's hours to be reduced, nor shall the student's training activities preclude the hiring of additional employees.

(3) Include productive work of any kind as defined by State and Federal Labor Regulations (Div. 2, Part 4 commencing with Section 2011, California Labor Code; Fair Labor Stds. Act, 29 U.S. Code, Sections 201 et seq.).

(b) Unpaid on-the-job training experiences shall only expand competencies developed in the classroom instruction portion of the vocational course/program utilizing the community classroom methodology.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Sections 52372.1(a)(6), 52372.1(d) and (e), Education Code.

HISTORY

1. Renumbering and amendment of former Section 10090 to Section 10080, and new Section 10090 filed 12-3-87; operative 1-2-88 (Register 87, No. 50). For history of former Section 10090, see Register 79, No. 45.

§ 10091. Programs Conducted in Community Classrooms.

NOTE: Authority cited: Section 51054, Education Code. Reference: Section 51054, Education Code.

HISTORY

1. Repealer filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10092. Scope.

The provisions of this article do not apply to community colleges or to private postsecondary schools under contract pursuant to Education Code Section 8092.

HISTORY

1. Amendment filed 10-30-75; effective thirtieth day thereafter (Register 75, No. 44).

2. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 6. Cooperative Vocational Education

§ 10100. Definitions.

(a) "Cooperative Vocational Education" is an instructional methodology which correlates concurrent, formal vocational classroom instruction with regularly scheduled, paid on-the-job training experience. Cooperative vocational education assists students to develop and refine occupational competencies (attitudes, skills, and knowledges) needed to acquire, adjust, and advance in an occupation.

(b) "Competency" means the prescribed performance level for a skill, knowledge, and attitude necessary to accomplish a job task.

(c) "Formal Vocational Instruction" means instruction provided by a qualified teacher, utilizing a lesson plan, to a group of students in a classroom.

(d) "Related Classroom Instruction" means formal vocational instruction which is correlated with paid on-the-job training experiences.

(e) "Cooperative Vocational Education Teacher" is the certificated vocational education instructor, employed by the local educational agency, operating a cooperative vocational education instructional methodology, who provides the formal vocational classroom instruction, conducts the required visitations to paid on-the-job training stations, and verifies student acquisition of competencies identified in the training plan.

(f) "Cooperative Vocational Education Training Agreement" is a written document which describes the conditions and requirements to be met

by those parties (school, employer, student, and parent) involved with the utilization of business and industry resources for vocational instruction.

(g) "Cooperative Vocational Education Individualized Training Plan" is a written document which identifies those competencies the student will acquire through vocational classroom instruction and paid on-the-job experiences.

(h) "Concurrent Classroom Instruction" means classroom instruction and paid on-the-job training experiences are being conducted together within the same time-frame (quarter, semester, program year, etc.).

(i) "Approved Vocational Education Course/Program" means the State Department of Education has approved the vocational education course/program by either signing a ROC/P Course Approval application (Form VE-77) or local educational agency Program Inventory (Form VE-30).

(j) "Cooperative Vocational Education Training Station" is the business/industry, location, public or private, where the student receives his/her regularly, scheduled, paid, on-the-job training experiences.

(k) "Methodology" means a technique or procedure used for teaching students skills.

(l) "Supervision/Coordination" are those activities performed by the cooperative vocational education teacher, usually outside of the classroom that include, but are not limited to: advisory committee operation, program promotion/recruitment, selection of training stations, training plan development, relating in-school instruction to paid on-the-job training, on-the-job student/employer visitations, and evaluation of student progress.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Section 52372.1(a), Education Code.

HISTORY

1. New Article 7 (Sections 10100-10107) filed 10-22-76; effective thirtieth day thereafter (Register 76, No. 43).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Article 7 (Sections 10100-10107) to Article 6 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
4. Repealer of former Section 10100 and renumbering and amendment of former Section 10101 to Section 10100 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).
5. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10101. Advisory Committee.

NOTE: Authority cited: Section 52372, Education Code. Reference: Section 52372, Education Code.

HISTORY

1. Renumbering and amendment of former Section 10101 to Section 10100 and renumbering and amendment of former Section 10102 to Section 10101 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).
2. Repealer filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10102. Academic Credit for Participation in Cooperative Vocational Education.

Provision shall be made for evaluating and rating each student's achievement in Cooperative Vocational Education. Credit shall be granted for the satisfactory completion of the following:

(a) Evaluation of participation in related classroom instruction which is the responsibility of the cooperative vocational education teacher.

(b) Evaluation of participation at the paid training station which is the responsibility of the cooperative vocational education teacher with the assistance of the employer.

NOTE: Authority cited: Sections 52372 and 52372.1(a)(7), Education Code. Reference: Section 52372.1(a)(7), Education Code.

HISTORY

1. Renumbering and amendment of former Section 10102 to Section 10101 and renumbering and amendment of former Section 10103 to Section 10102 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).
2. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10103. Student Qualifications.

In order to qualify for participation in cooperative vocational education, a student shall:

(a) Be at least 16 years of age except, a student with exceptional needs, including, but not limited to, financial or motivational needs as determined by the principal or local educational director.

(b) Be a full-time student. For the purpose of this section, a full-time student means one of the following:

(1) A student enrolled in continuation/alternative education.

(2) A student enrolled in a regional occupational center or regional occupational program.

(3) A student enrolled in the regular school for the minimum day, excluding cooperative vocational education.

(4) A student enrolled in a summer school approved pursuant to regulations of the State Board.

(c) Have parental or guardian approval if under 18 years of age.

(d) Be currently enrolled in the approved vocational education course/program.

NOTE: Authority cited: Section 52372, Education Code. Reference: Sections 52372 and 52372.1(e), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Renumbering and amendment of former Section 10103 to Section 10102 and renumbering and amendment of Section 10104 to Section 10103 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).
3. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10104. Teacher Responsibilities.

The cooperative vocational education teacher shall:

(a) Assist students in career planning and guidance.

(b) Locate and select training stations to provide students on-the-job training experiences commensurate with their abilities and interests.

(c) Plan on-the-job training station experiences with the employer.

(d) Provide a written evaluation of the paid on-the-job progress of the student at least once each grading period.

(e) Assist students with continued educational objectives and/or employment placement.

(f) Provide concurrent, formal, related classroom instruction.

(g) Conduct required training station visits to observe students and ensure that student acquisition of competencies identified in the individualized training plan is occurring.

(h) Prepare individualized training plans.

(i) Provide ongoing and final evaluation of the student's achievement of course/program instructional objectives.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Sections 46300(f), 52372.1(a)(1), (2), (3), (4) and (6), Education Code.

HISTORY

1. Renumbering and amendment of former Section 10104 to Section 10103 and renumbering and amendment of former Section 10105 to Section 10104 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).
2. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10105. Records.

The cooperative vocational education teacher shall keep on file copies of the following records:

(a) Evidence of work permits issued.

(b) Training agreements.

(c) Individualized training plans.

(d) Cooperative vocational education teacher on-site training station visitations and employer consultations regarding student progress and training plan paid on-the-job experiences.

(e) Pupil training hours from the employer.

(f) Students enrolled in the cooperative vocational education program, including the names of firms that served as training stations, the duration of time the students were employed, and the total number of hours the students were employed.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Section 52372.1(a), Education Code.

HISTORY

1. Renumbering and amendment of former Section 10105 to Section 10104 and renumbering and amendment of former Section 10106 to Section 10105 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

2. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10106. Related Classroom Instructions.

(a) Formal related vocational classroom instruction shall be:

(1) Concurrent and directly related to the paid on-the-job training of students.

(2) Organized to ensure that each student will have sufficient number of hours of related classroom instruction and on-the-job training experience to provide the student with those competencies necessary for employment and advancement in the occupational area for which training is offered.

(3) Provided at a minimum equivalency of three instructional periods per week. An instructional period must equal at least 50 minutes. A minimum of one instructional period per week shall be scheduled and conducted.

(b) The curriculum for a vocational course/program, utilizing the cooperative vocational education methodology, shall identify how competencies necessary for employment will be taught through concurrent classroom instruction and on-the-job training experiences.

NOTE: Authority cited: Section 52372.1, Education Code. Reference: Section 52372.1(a)(2) and (b), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10107. Selection and Approval of Training Stations.

The following criteria shall be used to select and approve training stations.

(a) The employer at the cooperative vocational education training station shall:

(1) Have a clear understanding of program objectives and a willingness to participate in the program.

(2) Provide adequate supervision to ensure a planned program of the students' paid on-the-job training in order that the student may receive maximum education benefit.

(3) Consult with the cooperative vocational education teacher regarding the paid on-the-job progress of the student.

(4) Cooperate with the vocational education director or his or her designee in preparing a written training agreement.

(5) Participate with the cooperative vocational education teacher and the student in preparing an individualized training plan.

(6) Provide a minimum of 8 hours of paid employment per week to assist students to acquire those competencies necessary for employment and advancement in the occupational area for which training is offered.

(7) Assist in maintaining accurate records of the students' training hours.

(8) Provide Workers' Compensation Insurance for students employed through the Cooperative Vocational Education Program.

(b) The training station shall offer training opportunities in the specific occupation for which the course is approved. Training opportunities at the paid station shall be in the occupation for which related instruction is provided.

(c) Training station working conditions shall not endanger the health, safety, welfare or morals of the students.

(d) The training station shall have adequate equipment, materials and other resources to provide an appropriate learning opportunity.

NOTE: Authority cited: Sections 52372 and 52372.1(a), Education Code. Reference: Sections 44806, 46300(f), 51769, 52372, 52372.1(a)(1), (a)(3), (a)(4), (a)(6) and (b), Education Code.

HISTORY

1. Amendment filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

2. Amendment filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10108. Cooperative Vocational Education Training Agreements and Individualized Training Plans.

(a) The vocational education director or his/her designee shall prepare a written training agreement which delineates the responsibilities of each employer and local education agency.

(b) The cooperative vocational education teacher in cooperation with the training station employer and student shall prepare an individualized training plan for each pupil to include, but not be limited to, the following:

(1) Competencies to be presented in the instructional objectives of the approved course/program.

(2) Expected duration of training for competencies necessary for employment.

(3) Identification of competencies to be taught in either related classroom instruction and/or the paid training station.

(4) Verification that the student has acquired the competency by demonstrating a proficiency equivalent to entry-level employment and/or advanced occupational areas. A copy of the individualized training plan shall be maintained at the cooperative vocational education training station.

NOTE: Authority cited: Sections 46300(f) and 52372.1(a), Education Code. Reference: Sections 46300(f), 52372.1(a)(4) and (b), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10109. Supervision of Students.

(a) The cooperative vocational education teacher shall make at least one visitation every four weeks to each employer to ensure that the training agreement provisions are being met and student acquisition of competencies identified in the individualized training plan are occurring.

One out of every two visits to the training station must include an observation of the student engaged in on-the-job training experiences.

(b) The cooperative vocational education teacher shall be provided time for supervision/coordination equivalent to one hour per week for every five cooperative vocational education students enrolled. When less than five students are enrolled, a minimum of one hour per week of supervision/coordination time shall be provided.

(c) Only the cooperative vocational education teacher who provides related classroom instruction shall provide supervision/coordination for the paid on-the-job training of students.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Section 52372.1(a)(2) and (a)(3), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10110. Student-Teacher Ratio.

(a) The maximum number of students per vocational education course section utilizing the community classroom and/or cooperative vocational education methodology shall not exceed 30 at any time.

(b) The maximum number of students assigned to a vocational education instructor utilizing the community classroom and/or cooperative vocational education methodology, including both related classroom instruction and supervision/coordination, shall not exceed 75 at any time.

NOTE: Authority cited: Section 52372.1, Education Code. References: Section 52372.1(a)(5), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, No. 50).

§ 10111. Paid On-the-Job Experiences.

(a) The paid on-the-job training experience shall be:

(1) Regularly scheduled.

(2) In the specific occupation for which the course/program is approved.

NOTE: Authority cited: Section 52372.1(a), Education Code. Reference: Section 52372.1(a)(6) and (b), Education Code.

HISTORY

1. New section filed 12-3-87; operative 1-2-88 (Register 87, no. 50).

Chapter 10.2. Adult Education

Subchapter 1. Adult Schools and Classes for Adults (General)

Article 1. General Provisions

§ 10500. Scope.

NOTE: Authority cited for Chapter 1: Sections 33031, 41841.5, 52501, 52506, 52515–52517 and 52570, Education Code. Reference: Sections 48040, 41841.5, and Chapter 10 of Part 28 of Division 4, Education Code.

HISTORY

1. New Chapter 1 (§§ 10500–10508, 10520–10525, 10530–10533, 10540–10544, 10560–10563) filed 3–23–70; effective thirtieth day thereafter (Register 70, No. 13).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
4. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10501. Definitions.

(a) “Facilities Clearly Identified” is the posting of an appropriate sign in a publicly visible location identifying the location as a classroom site of the adult school, or listing the location in a public announcement, documents, or brochures.

(b) “Adult,” for purposes of attendance counting, means a person 16 years of age or older.

NOTE: Authority cited: Sections 33031 and 52517, Education Code. Reference: Sections 52610 and 52517, Education Code.

HISTORY

1. Amendment of subsection (a) and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
3. Amendment filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10502. Maintenance.

HISTORY

1. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10503. Educational Purpose.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10504. Use of Films.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10505. Recreational Classes Not Permitted.

HISTORY

1. Repealer filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).

§ 10506. Classes in Connection with Organizations.

HISTORY

1. Repealer filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).

§ 10507. Attendance and Enrollment.

HISTORY

1. Repealer filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).

§ 10508. Records and Reports.

(a) The program administrators, counselors and teachers of each school district maintaining adult schools and classes for adults shall keep

such records and shall make such reports relating to such schools and classes as may be required by the Field Services Section and be subject to inspection.

(b) Course outlines in all subjects shall be on file available for review.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).

Article 2. Approval of Adult Schools and Classes

§ 10520. Approval of Adult Schools.

NOTE: Authority cited: Sections 33031, 41841.5, 52501, 52506, 52515, 52516, 52517, 52570, Education Code. Reference: Sections 52500–52615, Education Code.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 10521. Approval of Classes for Adults.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10522. Areas of Instruction Approved.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10523. Areas of Instruction Requiring Supplementary Information.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10524. Attendance and Enrollment.

Each program area as authorized in Education Code Section 41976 shall be designed for and attended primarily by adults.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 41976 and 52500, Education Code.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Amendment filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10525. Compliance with Regulations.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

Article 3. Standards for Adult Schools

§ 10530. Counseling and Guidance Services.

An approved adult school shall provide counseling and guidance services adequate to meet the needs of the students attending classes of such school.

§ 10531. Duration.

HISTORY

1. Amendment filed 12–23–77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10–6–83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10532. Curricula.**HISTORY**

1. Amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).
2. Repealer filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10533. Curricula.**HISTORY**

1. Repealer filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

§ 10534. Apportionments. Required Proportional Level of Service.

NOTE: Authority cited: Section 41976(b), Education Code. Reference: Section 41976(b), Education Code.

HISTORY

1. New section filed 6-18-80; effective thirtieth day thereafter (Register 80, No. 25).
2. Repealer filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Article 4. Standards for Particular Classes for Adults**HISTORY**

1. Repealer of Article 4 (Sections 10540-10544) filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Article 5. Standards of Administration**§ 10560. General.**

(a) Each class for adults shall be maintained in connection with the school furnishing the administrative, counseling and guidance, and supervisory services for the class.

(b) Administration—Under 100 A.D.A. In school districts that had a total of less than 100 units of average daily attendance in classes for adults during the preceding fiscal year, the governing board shall make a minimal assignment of properly credentialed personnel for administration, counseling and guidance, supervision, evaluation and curriculum development in the adult education program equivalent to one day per year for each unit of average daily attendance during the preceding fiscal year.

(c) Administration—Over 100 A.D.A. In a school district maintaining classes for adults in connection with a high school which had a total average daily attendance of 100 or more units in classes for adults during the preceding fiscal year, a separate adult school or schools shall be established by the governing board of the district as a separate administrative unit.

The administrator of each adult school shall be a properly credentialed person who is not a principal or a full-time vice principal of an elementary or secondary school.

The governing board shall make a minimal assignment of properly credentialed personnel exclusively for administration, supervision, evaluation, curriculum development and counseling and guidance in an adult school as follows:

A.D.A. in the particular adult school during the preceding fiscal year

100 through 199	One-half time of one administrator
200 through 299	One full-time administrator
300 through 399	One full-time administrator and one-fourth time of one other person
400 and over	One full-time administrator and one-half time of one person for each 200 units of such A.D.A. in excess of 200

(d) Administration—Schools and Classes for Adults in County Tuberculosis or Poliomyelitis Hospitals or Sanitoriums.* The administration and counseling for adult schools and classes for adults maintained at a county tuberculosis or poliomyelitis ward, hospital, or sanitorium shall be the same as that employed in other adult schools and classes for adults of the district.

HISTORY

1. Renumbering of Sections 10561, 10562, 10563 to Section 10560 and amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).

* For other regulations applicable to such classes, see Section 3751.

§ 10561. Administration—Under 100 A.D.A.**HISTORY**

1. Renumbering of Sections 10561, 10562, 10563 to Section 10560 and amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).

§ 10562. Separate Adult Schools.**HISTORY**

1. Renumbering of Sections 10561, 10562, 10563 to Section 10560 and amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).

§ 10563. Administration.* Schools and Classes for Adults in County Tuberculosis or Poliomyelitis Hospitals or Sanitoriums.**HISTORY**

1. Renumbering of Sections 10561, 10562, 10563 to Section 10560 and amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).

* For other regulations applicable to such classes, see Section 3751.

Subchapter 2. Classes for Adults in County Jails, Industrial Farms, and County or Joint County Road Camps

NOTE: Authority cited for Chapter 2: Section 41841, Education Code. Specific authority cited: Sections 33031, 41841.5, 52501, 52506, 52515-52517, and 52570, Education Code. Reference: Sections 48040, 41841.5, and Chapter 10, Part 28, Division 4, Education Code.

HISTORY

1. New Chapter 2 (§§ 10580 through 10591) filed 3-23-70; effective thirtieth day thereafter (Register 70, No. 13).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 12-23-77; effective thirtieth day thereafter (Register 77, No. 52).
4. Repealer of Chapter 2 (Sections 10580-10583, 10585-10591, not consecutive) filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Subchapter 3. Adult Education Innovation and Alternative Instructional Delivery**Article 1. Administration****§ 10600. Allowable Expenditures.**

For purposes of the adult education innovation and alternative instructional delivery program, allowable expenditures are those costs defined in Education Code section 52616.4(a). All expenditures must be adequately supported by source documentation, including time records and other contemporaneous records documenting employee time spent working on the adult education innovation and alternative instructional delivery program. Records of non-personnel expenditures shall include documentation that the service, supply or equipment was used solely for the adult education innovation and alternative instructional delivery program. Record keeping shall comply with Education Code sections 41010 and 41011.

NOTE: Authority cited: Section 52522(d), Education Code. Reference: Sections 41010, 41011, 52506, 52522 and 52616.4(a), Education Code.

HISTORY

1. New subchapter 3, article 1 and section filed 4-4-94 as an emergency; operative 4-4-94 (Register 94, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-94 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.2(g) (Register 94, No. 36).
3. New subchapter 3, article 1 and section refiled 9-7-94; operative 9-7-94 (Register 94, No. 36).

§ 10605. Range of Allowable Expenditures.

School districts shall expend no more than \$2,050 nor less than \$9 per student enrolled in the adult education innovation and alternative instructional delivery program.

NOTE: Authority cited: Section 52522(d), Education Code. Reference: Sections 41010, 42238, 52506 and 52616, Education Code.

HISTORY

1. New section filed 4-4-94 as an emergency; operative 4-4-94 (Register 94, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-94 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.2(g) (Register 94, No. 36).
3. New section refiled 9-7-94; operative 9-7-94 (Register 94, No. 36).

§ 10610. Reporting Requirements.

(a) Each applicant school district shall describe in its application to the state, the accountability procedures to be used in lieu of attendance records. The accountability procedures shall describe the source documentation which may include, but need not be limited to records of student enrollment, student-teacher contacts, student progress, and value-added student growth as verified through assessment.

(b) School districts participating in the adult education innovation and alternative instructional delivery program, by December 1 following the end of each school year, shall provide to the State Superintendent of Public Instruction an auditable fiscal report, a report of student participation, and a program evaluation report.

(1) The annual fiscal report shall include all allowable expenditures of the adult education innovation and alternative instructional delivery program as determined in Section 10600 of this article.

(2) Student participation reports shall include data converted to conform to the average student rate for successfully completing similar, traditional courses. Students who do not complete an entire course will qualify for partial participation credit based on the percentage of work completed as verified by post testing or completed student course work.

(3) The evaluation report shall include the requirements specified in Section 10615 of this article.

NOTE: Authority cited: Section 52522(d), Education Code. Reference: Sections 52506, 52522 and 52616.4(a), Education Code.

HISTORY

1. New section filed 4-4-94 as an emergency; operative 4-4-94 (Register 94, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-94 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.2(g) (Register 94, No. 36).
3. New section refiled 9-7-94; operative 9-7-94 (Register 94, No. 36).

§ 10615. Program Evaluation.

(a) In their applications, school districts participating in the adult education innovation and alternative instructional delivery program shall describe their evaluation procedures, including clearly defined and measurable objectives for improving delivery of adult education instruction.

(b) School districts shall report in their annual evaluation, the actual number of students served as well as the progress made in reaching goals and completing objectives and activities. Progress can be determined through a variety of mechanisms, such as standardized student testing, student competency attainment, increased student retention, and student employment status.

(c) The State Superintendent of Public Instruction shall use the evaluation process and reports to determine the school district's program impact on the adult education instructional delivery system, and may use evaluation results to modify or deny a school district's application to continue the innovation and alternative instructional delivery program in future years.

NOTE: Authority cited: Section 52522(d), Education Code. Reference: Sections 52506 and 52522, Education Code.

HISTORY

1. New section filed 4-4-94 as an emergency; operative 4-4-94 (Register 94, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-2-94 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.2(g) (Register 94, No. 36).
3. New section refiled 9-7-94 with editorial correction of subsection (a); operative 9-7-94 (Register 94, No. 36).

Chapter 11. Special Programs**Subchapter 1. Continuation Education****Article 1. Standards for Programs****§ 11000. Director of Continuation Education.**

The governing board of each school district maintaining compulsory continuation classes, a continuation high school, or an alternate program authorized under Section 48432 shall provide a director of continuation education who shall be responsible for the organization and administration of the district program of continuation education and guidance, placement, and follow-up.

NOTE: Authority cited for Article 1: Section 48432, Education Code.

HISTORY

1. New Article 1 (§§ 11000 through 11006) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11001. Programs of Guidance, Placement, and Follow-Up.

The guidance, placement, and follow-up services are to be provided on a regular basis and shall include the following:

(a) Personal Guidance. All pupils shall be provided with individual counsel in matters affecting their personal, social, and educational adjustment.

(b) Occupational Guidance. All pupils shall be provided with necessary occupational information that individually and realistically prepares them for future employment opportunities.

(c) Placement. All pupils shall be assisted in securing suitable employment whenever the pupil can benefit from such employment.

(d) Follow-up. The district shall provide all pupils with follow-up services as follows:

(1) Visitation of employed pupils at places of employment to determine the effectiveness of the guidance and placement services.

(2) Regular home contacts and parent conferences in cases where a student is not succeeding in a continuation program.

(3) Regular contacts with all students enrolled only 4 hours per week and all pupils suspended from continuation education with the intent of eventually returning them to the full-time continuation education program.

§ 11002. Instruction Based on Individual Needs.

The programs of instruction in continuation education shall be based upon individual needs as determined by the findings of the counseling and coordination services.

§ 11003. Coordination Programs.

The governing board of each school district maintaining continuation education schools or classes shall set up a plan to coordinate the pupils' instruction and training in the school with the home, employment, and other agencies and shall designate one or more persons as coordinators.

§ 11004. Separate Continuation High Schools.

(a) The continuation high school shall be established as a separate administrative unit by resolution of the governing board.

(b) An application for the establishment of any new continuation high school shall be approved by the State Department of Education as a condition to the recognition of the school as a separate continuation high school for apportionment purposes.

(c) The governing board shall appoint as principal of the school a person who holds a credential authorizing service as principal of a high

school. The principal may serve as the director of continuation education if he holds an administrative credential.

(d) A continuation high school shall be conducted for not less than 175 days during a school year.

(e) In each continuation high school there shall be provided a curriculum that will enable the students to meet the requirements for graduation prescribed pursuant to Education Code Sections 51224 and 51225.

HISTORY

1. Amendment of subsection (e) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11005. Records and Reports.

(a) The Director of Education shall keep records and reports required for the annual report prescribed by the State Department of Education.

(b) The annual report shall contain a statement of the director of continuation education that the district, during the current school year has complied with Education Code Section 48432 and this article.

HISTORY

1. Amendment of subsection (b) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11006. Apportionments.

A district shall not be entitled to receive any apportionment of funds on account of attendance in continuation education high schools or classes unless the district has complied fully with the provisions of this article.

Article 2. Exemption from Maintaining Continuation Education Classes

§ 11010. Exemption.

An application for exemption from the requirement of maintaining special continuation education classes, as permitted by Education Code Section 48432, shall describe the district's plan to provide instruction for pupils subject to continuation education. The application shall be submitted to the State Department of Education, Bureau of Elementary and Secondary Education, State Education Building, Sacramento, California, by June 30 for the following school year. If granted, the exemption shall apply to that school year only.

NOTE: Authority cited for Article 2: Section 48436, Education Code.

HISTORY

1. New Article 2 (§ 11010) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

* For scholarship grants to teachers of reading, see Section 5710ff.

Subchapter 2. Special Elementary School Reading Instruction Programs*

*For scholarship grants to teachers of reading, see Section 5710.

Article 1. General Provisions

§ 11200. Scope of Chapter.

This chapter applies:

(a) To all "Special Elementary School Reading Instruction Programs" that are established pursuant to and authorized by the Miller-Unruh Basic Reading Act of 1965, as amended, hereinafter called "the Act" (Sections 54100-54173 of the Education Code).

(b) To all districts that apply for allowances for the employment of specialist teachers in reading or for a salary allotment for professional school librarians.

NOTE: Authority cited for Article 1: Section 54103, Education Code.

HISTORY

1. New Article 1 (§§ 11200-11202) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).

2. Amendment of subsection (a) and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11201. Reading Testing Program.

The reading testing program required by the Act in Grades 1, 2 and 3 shall be conducted as provided in Sections 1050-1056.

§ 11202. Scholarship Grants for Teachers of Reading.

Scholarship grants for teachers of reading authorized by the Act shall be applied for, granted, and used in accordance with Sections 5710-5712.

Article 2. Nomination and Designation of Specialist Teacher in Reading

§ 11210. Nomination for the Position of Specialist Teacher.

A governing board that nominates, pursuant to Education Code Section 54120, a qualified certificated employee of the district for the position of specialist teacher shall submit the nomination to the Commission for Teacher Preparation and Licensing (hereinafter in this Article called the Commission). The nomination shall be on a form supplied, and submitted in the manner prescribed, by the Bureau. Either the governing board of a school district or a certificated employee of a school district may request the Commission for the form.

NOTE: Authority cited for Article 2: Section 54103, Education Code.

HISTORY

1. New Article 2 (§§ 11210-11215) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11211. Petition by Certificated Employee to Be Appointed a Specialist Teacher.

A certificated employee may petition the Commission to be nominated a specialist teacher. The petition shall be submitted on the form and in the manner specified in Section 11210.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11212. Appointment of Panels of Observers.

The Commission shall appoint members to each observer panel required by Education Code Section 54120, and shall designate the chairman of each panel. The Commission shall use any of the following criteria, or in the judgment of the Commission the equivalent thereof, as the basis for the selection of each person appointed as a member of an observer panel:

(a) In the judgment of the Commission the person has had sufficient preparation and experience directly related to the reading instruction of young pupils in the public schools or private schools of equivalent status to demonstrate familiarity with reading problems and knowledge of the various teaching skills and methodologies necessary to improve the quality and effectiveness of reading instruction.

(b) In the judgment of the Commission, the person has had sufficient preparation and experience at the college or university level, or sufficient other experience, directly related to the reading instruction of young pupils to demonstrate familiarity with reading problems and knowledge of the various teaching skills and methodologies necessary to improve the quality and effectiveness of reading instruction.

(c) The person is recognized by the Commission as an expert in the field of the teaching of reading, possessing familiarity with reading problems and knowledge of the various teaching skills and methodologies necessary to improve the quality and effectiveness of reading instruction of young pupils. Among other persons, a person who holds a certificate of "Specialist Teacher" in Reading under Education Code Section 54104 is deemed to be so recognized for the purposes of this section.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11213. Conduct of Panel Observations.

The chairman of each panel, in cooperation with the chief administrative official of the school district in which the teacher to be observed is employed, shall schedule observation visitations. The panel chairman shall notify the teacher, the school district, and the other members of the panel of the time and date when the observation will be made. An observation visitation shall consist of direct observation by the panel of the teacher in his own classroom situation and shall be of sufficient duration to allow the teacher to demonstrate, through the selection and use of appropriate teaching techniques, his effectiveness in teaching young school pupils. The observation shall include, but need not be limited to, the reading period. The panel, in each instance, is authorized to interview the teacher and to seek additional information through persons who have first-hand information of the pedagogical skills possessed.

§ 11214. Report by Chairman of Observer Panel.

When a panel has completed its observation of the performance of a teacher, it shall, by a two-thirds vote of the members of the panel, nominate or deny nomination of the teacher for the position of specialist teacher. Within 10 days of such completion, the chairman of the panel, on forms provided by the State Department of Education, shall declare the decision, certify it to be the decision of the panel, and forward one copy of the completed form to the teachers observed by the panel, one copy to that teacher's governing board, and one copy to the Commission. The Commission shall notify a teacher nominated by the panel of the time and place of the written examination required by Education Code Section 54122.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11215. Examination for Specialist Teacher in Reading and Fees.

The Commission shall administer the examination program required by Education Code Section 54122. Applicants shall take the examination designated by the State Board. The applicant is required to pay the cost of administering and scoring the examination. Dates of the examination and other information may be obtained from the Commission upon request.

Each nominee successfully completing the examination shall pay for issuance of the certificate the amount fixed by the Commission for Teacher Preparation and Licensing in Section 6020 for issuance of a credential.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 3. Minimum Standards of Course Content for Basic Reading Program and Criteria for Approval of Application

§ 11220. Minimum Standards of Course Content for Basic Reading Program.

The minimum standards of course content for a basic reading program are the following:

- (a) Systematic instruction for pupils in basic skills of word recognition, including phonics, and comprehension of meaning such as set forth in the basic reading texts adopted by the State.
- (b) Systematic and continuous practice provided the pupils in applying skills in reading for self-directed purposes.
- (c) Presentation to pupils of a wide variety of literature appropriate to the ages, abilities, and interests of children in the program.
- (d) Continuous assessment of language skills and abilities of pupils.
- (e) Instruction and practice for pupils in the use of oral language as communication of meaning and expression of thought.

(f) Instruction, practice, and drill for children in use of oral language as reinforcement of skills necessary for correct hearing and speaking of the English language.

(g) Utilization of a wide variety of sensory experiences for pupils to provide a store of basic concepts with which to build meaning and interest.

(h) Demonstration for teachers of a variety of teaching methods.

(i) Assistance to teachers in techniques of informal observation of child behavior as a means of discovering reading disabilities.

(j) Assistance to teachers in planning effective organization for instruction.

NOTE: Authority cited for Article 3: Section 54161, Education Code.

HISTORY

1. New Article 3 (§§ 11220 and 11221) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11221. Criteria for Approving District Applications for Funds Pursuant to Section 5789.**HISTORY**

1. Repealer filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).

Article 4. Allowances to Districts for Employment of Specialist Teachers and Salaries of Librarians

§ 11230. Application for Allowance.

An application by the governing board for an allowance for the employment of specialist teachers in reading (hereinafter called "specialist teacher") and for the salary allotment for professional school librarians under the provisions of Education Code Section 54165 for the regular school year shall be made in accordance with the instructions provided on forms furnished by the Superintendent of Public Instruction.

NOTE: Authority cited for Article 4: Sections 54160, 54163 and 54164, Education Code. Issuing Agency: Superintendent of Public Instruction.

HISTORY

1. New Article 4 (§§ 11230-11237) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).
3. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11231. Contents of the Application.

The application shall be in two parts. Part I shall contain information necessary to determine eligibility, teacher quotas, priorities, and allowances. Part II shall contain the information required in Section 11221. Part I shall be in two sections.

(a) Prior Year's Program.

Section 1 shall be completed only for a program to be maintained at the level of the prior year's program and shall provide the information necessary:

(1) To determine continued eligibility,

(2) To compute allowances up to the number of specialist teachers and the number of specialist teachers served by librarians that were reported and approved on the annual certification of participation in the act (Form J-10A) of the year immediately preceding the year for which the application is made.

(b) New and Expanded Programs.

Section 2 shall be completed by districts wishing to start a program under the act and by districts already in the program who wish to expand beyond the level of the prior year. Section 2 shall provide the information necessary:

(1) To establish eligibility.

(2) To determine priority.

(3) To compute the allowances for specialist teachers' and librarians' salaries.

(c) Certifications.

The application shall contain a certification by the governing board that the application has been prepared in accordance with applicable laws and regulations and that all requirements regarding the employment and payment of reading specialist teachers are met.

HISTORY

1. Amendment filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).

§ 11232. Reporting for Allowances.

After notice of approval of the application and after the start of the school year, each district shall furnish, on forms provided by the State Superintendent of Public Instruction, a preliminary certification of actual participation in the act. The report shall include the following information for the approved state funded program:

- (a) Each specialist teacher's name and Specialist Teacher in Reading certificate number.
- (b) The school or schools in which each teacher serves.
- (c) The priority order (Education Code Section 54163) under which the teacher is authorized.
- (d) The salary of each teacher including the specialist teacher stipend authorized by Education Code Section 54166.
- (e) The number of specialist teachers served by librarians.
- (f) The total salaries of librarians serving specialist teachers.

From the information received on this preliminary certification of actual participation and as early in the school year as possible, an apportionment of allowances will be made.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11233. Final Certification of Actual Participation.

At the end of the school year, each district shall furnish, on forms provided by the State Superintendent of Public Instruction, a final certification of actual participation in the act. The report shall include the following information for the approved state funded program:

- (a) Each specialist teacher's name and Specialist Teacher in Reading certificate number.
- (b) The school or schools in which each teacher served.
- (c) The actual salary paid each teacher including the reading specialist stipend.
- (d) The number of specialist teachers served by librarians.
- (e) The total actual salaries paid the librarians serving specialist teachers.

(f) An explanation of the circumstances where this report information differs substantially from the information on the preliminary certification of actual participation in the Miller-Unruh Reading Improvement Act.

§ 11234. Repayment to the State Department of Education.

If it is determined that the school district failed to conduct the program in full or in part as certified on the preliminary certification of actual participation required by Section 11232, the State Superintendent of Public Instruction shall order the governing board of the district to draw a warrant in favor of the Department of Education for the amount of the discrepancy so determined. If the governing board fails to draw the warrant as ordered, the Superintendent of Public Instruction shall notify the State Controller to withhold such amounts from funds the district would otherwise be eligible to receive as apportionments from the State School Fund in the succeeding fiscal year.

§ 11235. Definition of Average Daily Attendance.

Average daily attendance for the purposes of computing the quota of specialist teachers means the average daily attendance of the second report period of the fiscal year immediately preceding the year the specialist teachers are to be employed.

§ 11236. Newly Formed Districts.

For a newly formed or reorganized district, or a district a part or all of which was included in a newly formed or reorganized district, the Superintendent of Public Instruction shall ascertain the average daily attendance and test scores for each affected district as it existed during the preceding school year, and determine the appropriate portion thereof to be credited to the new or reorganized district. The total of such portions shall be the appropriate amount to be considered as preceding year data for the newly formed or reorganized district, and the corresponding adjustments shall be made for the former district or districts, as the case may be. The determination shall be based upon information supplied by the governing boards concerned, verified by the county superintendent of schools, and attached to the application form.

If a component district or school of a newly formed or reorganized district is a participant in the act the year just prior to the effective date of the reorganization, the program level of the component district or school becomes a part of the first priority of the newly formed or reorganized district, with the requirement that the specialist teachers and librarians serving these teachers remain with the primary student body being served prior to the reorganization.

§ 11237. Determining Priority for Small Schools.

Whenever one specialist teacher is to serve more than one school pursuant to Education Code Section 54140(a) and (b), the priority required by Education Code Section 54163(b) shall be determined by the combined totals of the pupils in grades 2 and 3.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 3. Mentor Teacher Program**§ 11250. District Participation in the Mentor Teacher Program.**

(a) Each school district governing board wishing to participate in the Mentor Teacher Program shall adopt a resolution at a public meeting, setting forth the goals, purposes, and planned operation of the district's mentor program and evidencing the board's having considered including parents, pupils, or other public representatives in the selection process.

(b) Applications by school districts for participation in the Mentor Teacher Program will be accepted by the State Department of Education only if planned mentor activities as stated in the resolution specified in subdivision (a) and appended to the district's application are consistent with those set out in Education Code Section 44496.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Sections 44492(d), 44492.5, 44495(a), 44496, Education Code.

HISTORY

1. New Chapter 3 (Sections 11250-11257) filed 3-26-84; effective thirtieth day thereafter (Register 84, No. 13). For prior history, see Registers 77, No. 39; 71, No. 30 and 69, No. 51.

§ 11251. Establishment of Selection Committees.

(a) A school district may have more than one selection committee so as to nominate candidates on an individual site, program area, subject area, or other alternative basis.

(b) One more than 50 percent of the members of each selection committee shall be classroom teachers; the remainder shall be school administrators.

(c) Classroom teacher members of the selection committee shall be chosen by secret ballot election conducted among all probationary and permanent classroom teachers serving in the site, program area, subject area, or other subdivision from which candidates may be nominated, or districtwide if there is only one districtwide selection committee.

(d) School administrator selection committee members shall be chosen by school administrators who have been designated for this role by the governing board.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Section 44495(a), Education Code.

§ 11252. Application of Individual Teachers for Mentor Teacher Designation.

(a) Any classroom teacher who meets the following qualifications is eligible to seek classification as a mentor teacher.

(1) Holds a valid California teacher credential.

(2) Has achieved permanent status or, in a district with an average daily attendance of fewer than 250 pupils, has been employed by the district as a credentialed classroom teacher for at least three consecutive school years prior to the school year for which nominations are to be made.

(3) Has substantial recent classroom teaching instructional experience.

(b) Written applications for participation in the mentor program shall be submitted to the selection committee prior to a reasonable deadline established by the governing board.

(c) An application shall include written consent by the applicant to release of personnel information relating to his or her teaching experience and performance to selection committee members.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Sections 44490, 44491(b) and 44495, Education Code.

§ 11253. Review of Applications and Nominations by the Selection Committees.

(a) Before nominating any candidate, the selection committee shall review the applicant's personnel information relating to his or her teaching experience and performance.

(b) The selection committee may nominate for mentor teacher classification any applicant who meets the qualifications of Section 11252, provided the committee determines upon review of all the information before it that the applicant has demonstrated exemplary teaching ability including, but not limited to, effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of pupils in different contexts.

(c) Each nominee shall receive the vote of at least one more than half the members of the selection committee.

(d) The governing board may determine a date by which nominations must be made in order to allow a reasonable time prior to the commencement of the succeeding fiscal year for the governing board to review nominations.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Sections 44490, 44491(b) and 44495, Education Code.

§ 11254. Review of Nominees and Designation of Mentor Teachers by the Governing Boards.

(a) Prior to designation of any nominee as a mentor teacher, the governing board may gather such further information as it deems necessary to evaluate the nominee according to the criteria in Sections 44490 and 44491(b).

(b) The district governing board may meet in closed session to consider the appointment of any nominee to be a mentor teacher in the same manner that it may consider the appointment or employment of other employees.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Sections 44490 and 44495(d), Education Code.

§ 11255. Renomination As Mentor Teacher.

Review and renomination shall be initiated and conducted in the same manner as provided in Sections 11252 and 11253. First consideration shall be given to mentor teachers if they continue to qualify for renomination and have served effectively as mentor teachers.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Section 44494(c), Education Code.

HISTORY

1. Editorial correction filed 4-2-84; designated effective 4-25-84 (Register 84, No. 13).

§ 11256. Duties and Responsibilities of Mentor Teachers.

(a) The duties and responsibilities of each mentor teacher shall be determined on an individual basis.

(b) The time and manner in which each mentor teacher shall render service in the program shall be determined on an individual basis.

(c) "Direct instruction of pupils," except as it applies to resource teachers, shall be construed to require a mentor teacher to instruct his or her regularly assigned pupils.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Section 44496, Education Code.

§ 11257. Duration of Mentor Teacher Designation.

(a) The duration of a designation as mentor teacher shall normally be for a period of three consecutive years. Designations having a duration of less than three years shall be one or two years only and may be renewed by the governing board, without review and renomination, until the three-year maximum is reached.

(b) Except in school year 1983-84, proration of the mentor teacher annual stipend shall occur only when nonprogrammatic circumstances, such as extended absence for health reasons, prevent the mentor teacher from completing the designated mentor period.

(c) If for any reason a mentor is unable to complete the designated mentor period, the governing board may select a replacement from committee-nominated alternates, if any.

NOTE: Authority cited: Section 44491(a), Education Code. Reference: Section 44495(d), Education Code.

Subchapter 4. English Language Learner Education

§ 11300. Definitions.

"School term" as used in Education Code section 330 means each school's semester or equivalent, as determined by the local governing board, which next begins following August 2, 1998. For multitrack or year round schools, a semester or equivalent may begin on different days for each school track.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 330, Education Code.

HISTORY

1. New subchapter 4 (sections 11300-11305) and section filed 7-23-98 as an emergency; operative 7-23-98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-20-98 or emergency language will be repealed by operation of law on the following day. For prior history of subchapter 4, see Register 77, No. 39.
2. Certificate of Compliance as to 7-23-98 order, including amendment of subchapter heading, transmitted to OAL 11-19-98 and filed 12-30-98 (Register 99, No. 1).

§ 11301. Knowledge and Fluency in English.

(a) For purposes of "a good working knowledge of English" pursuant to Education Code Section 305 and "reasonable fluency in English" pursuant to Education Code Section 306(c), an English learner shall be transferred from a structured English immersion classroom to an English language mainstream classroom when the pupil has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, or any locally developed assessments.

(b) At any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom.

(c) An English learner may be re-enrolled in a structured English immersion program not normally intended to exceed one year if the pupil has not achieved a reasonable level of English proficiency as defined in Section 11301(a) unless the parents or guardians of the pupil object to the extended placement.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305 and 306(c), Education Code.

HISTORY

1. New section filed 7-23-98 as an emergency; operative 7-23-98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-20-98

or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7–23–98 order transmitted to OAL 11–19–98 and filed 12–30–98 (Register 99, No. 1).

§ 11302. Duration of Services.

School districts shall continue to provide additional and appropriate educational services to English learners in kindergarten through grade 12 for the purposes of overcoming language barriers until the English learners have:

- (a) demonstrated English–language proficiency comparable to that of the school district’s average native English–language speakers; and
- (b) recouped any academic deficits which may have been incurred in other areas of the core curriculum as a result of language barriers.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306 and 310, Education Code; U.S. Code, Title 20, Section 1703(f); *Castaneda v. Pickard* (5th Cir. 1981) 648 F.2d 989, 1009–1011; and *Gomez v. Illinois State Board of Education* (7th Cir. 1987) 811 F.2d 1030, 1041–1042.

HISTORY

1. New section filed 7–23–98 as an emergency; operative 7–23–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–20–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–23–98 order transmitted to OAL 11–19–98 and filed 12–30–98 (Register 99, No. 1).

§ 11303. Reclassification.

The reclassification procedures used to reclassify a pupil from English learner to proficient in English shall include, but not be limited to, a responsible administrative mechanism for the effective and efficient conduct of the language reclassification process, which shall include each of the following procedural components:

- (a) Assessment of language proficiency using the English language development test, as provided for by Education Code section 60810 pursuant to the procedures for conducting that test provided in Subchapter 7.5 (commencing with Section 11510).

- (b) Participation of the pupil’s classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions of the pupil.

- (c) Parental involvement through:

- (1) Notice to parent(s) or guardian(s) of language reclassification and placement, including a description of the reclassification process and the parent’s opportunity to participate; and

- (2) Encouragement of the participation of parent(s) or guardian(s) in the school district’s reclassification procedure, including seeking their opinion and consultation during the reclassification process.

- (d) Until the statewide, empirically–established range of performance in basic English/language arts skills is established as required by Education Code section 313(d)(4), evaluation of the pupil’s performance as specified in Section 11302(b).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313, Education Code.

HISTORY

1. New section filed 7–23–98 as an emergency; operative 7–23–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–20–98 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsection (a)(3) filed 8–10–98 as an emergency; operative 8–10–98 (Register 98, No. 33). A Certificate of Compliance must be transmitted to OAL by 12–7–98 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–23–98 order and 8–10–98 order, including amendment of subsections (b) and (c), transmitted to OAL 11–19–98 and filed 12–30–98 (Register 99, No. 1).
4. Renumbering of former section 11303 to section 11309 and new section 11303 filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11304. Monitoring.

School districts shall monitor the progress of pupils reclassified to ensure correct classification and placement.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313, Education Code; U.S. Code, Title 20, Section 1703(f); *Castaneda v. Pickard* (5th

Cir. 1981) 648 F.2d 989, 1009–1011; and *Gomez v. Illinois State Board of Education* (7th Cir. 1987) 811 F.2d 1030, 1041–1042.

HISTORY

1. New section filed 7–23–98 as an emergency; operative 7–23–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–20–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–23–98 order transmitted to OAL 11–19–98 and filed 12–30–98 (Register 99, No. 1).
3. Renumbering of former section 11304 to section 11310 and new section 11304 filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11305. Documentation.

School districts shall maintain documentation of multiple criteria information, as specified in Section 11303(a) and (d), and participants and decisions of reclassification in the pupil’s permanent records as specified in Section 11303(b) and (c).

NOTE: Authority cited: Sections 33031 and 49062, Education Code. Reference: Section 313 and 49062, Education Code; U.S. Code, Title 20, Section 1703(f); *Castaneda v. Pickard* (5th Cir. 1981) 648 F.2d 989, 1009–1011; and *Gomez v. Illinois State Board of Education* (7th Cir. 1987) 811 F.2d 1030, 1041–1042.

HISTORY

1. New section filed 7–23–98 as an emergency; operative 7–23–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–20–98 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 7–23–98 order, including amendment of subsection (b), transmitted to OAL 11–19–98 and filed 12–30–98 (Register 99, No. 1).
3. Renumbering of former section 11305 to section 11315 and new section 11305 filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11306. Annual Assessment.

School districts reporting the presence of English learners shall conduct an annual assessment of the English language development and academic progress of those pupils.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313, 60640 and 60810, Education Code.

HISTORY

1. New section filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11307. Census.

- (a) All pupils whose primary language is other than English who have not been previously assessed or are new enrollees to the school district shall have their English language skills assessed within 30 calendar days from the date of initial enrollment.

- (b) The census of English learners, required for each school district shall be taken in a form and manner prescribed by the State Superintendent of Public Instruction in accord with uniform census taking methods.

- (c) The results of the census shall be reported by grade level on a school–by–school basis to the Department of Education not later than April 30 of each year.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 313 and 62002, Education Code.

HISTORY

1. New section filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11308. Advisory Committees.

- (a) School district advisory committees on programs and services for English learners shall be established in each school district with more than 50 English learners in attendance. School advisory committees on education programs and services for English learners shall be established in each school with more than 20 English learners in attendance. Both school district and school advisory committees shall be established in accordance with Education Code section 62002.5.

- (b) The parents or guardians of English learners shall elect the parent members of the school advisory committee (or subcommittee, if appropriate). The parents shall be provided the opportunity to vote in the election. Each school advisory committee shall have the opportunity to elect at least one member to the School District Advisory Committee, except that school districts with more than 30 school advisory committees may use a system of proportional or regional representation.

(c) School District Advisory Committees shall advise the school district governing board on at least the following tasks:

(1) Development of a district master plan for education programs and services for English learners. The district master plan will take into consideration the school site master plans.

(2) Conducting of a district wide needs assessment on a school-by-school basis.

(3) Establishment of district program, goals, and objectives for programs and services for English learners.

(4) Development of a plan to ensure compliance with any applicable teacher and/or teacher aide requirements.

(5) Administration of the annual language census.

(6) Review and comment on the school district reclassification procedures.

(7) Review and comment on the written notifications required to be sent to parents and guardians pursuant to this subchapter.

(d) School districts shall provide all members of school district and school advisory committees with appropriate training materials and training which will assist them in carrying out their responsibilities pursuant to subsection (c). Training provided advisory committee members in accordance with this subsection shall be planned in full consultation with the members, and funds provided under this chapter may be used to meet the costs of providing the training to include the costs associated with the attendance of the members at training sessions.

NOTE: Authority cited: Sections 33031 and 62000.2, Education Code. Reference: Sections 313, 62002 and 62002.5, Education Code.

HISTORY

1. New section filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11309. Parental Exception Waivers.

(a) In order to facilitate parental choice of program, all parents and guardians must be informed of the placement of their children in a structured English immersion program and must be notified of an opportunity to apply for a parental exception waiver. The notice shall also include a description of the locally-adopted procedures for requesting a parental exception waiver, and any locally-adopted guidelines for evaluating a parental waiver request.

(b) School districts shall establish procedures for granting parental exception waivers as permitted by Education Code sections 310 and 311 which include each of the following components:

(1) Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.

(2) Pursuant to Education Code section 311(c), parents and guardians must be informed that the pupil must be placed for a period of not less than thirty (30) calendar days in an English language classroom and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board.

(3) Pursuant to Education Code sections 311(b) and (c), the school principal and educational staff may recommend a waiver to a parent or guardian. Parents and guardians must be informed in writing of any recommendation for an alternative program made by the school principal and educational staff and must be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the pupil. If the parent or guardian elects to request the alternative program recommended by the school principal and educational staff, the parent or guardian must comply with the requirements of Education Code section 310 and all procedures and requirements otherwise applicable to a parental exception waiver.

(4) Parental exception waivers shall be granted unless the school principal and educational staff have determined that an alternative program offered at the school would not be better suited for the overall educational development of the pupil.

(c) All parental exception waivers shall be acted upon by the school within twenty (20) instructional days of submission to the school principal. However, parental waiver requests under Education Code section 311(c) shall not be acted upon during the thirty (30)-day placement in an English language classroom. These waivers must be acted upon either no later than ten (10) calendar days after the expiration of that thirty (30)-day English language classroom placement or within twenty (20) instructional days of submission of the parental waiver to the school principal, whichever is later.

(d) In cases where a parental exception waiver pursuant to Education Code sections 311(b) and (c) is denied, the parents and guardians must be informed in writing of the reason(s) for denial and advised that they may appeal the decision to the local board of education if such an appeal is authorized by the local board of education, or to the court.

(e) For waivers pursuant to Education Code section 311(a) and for students for whom standardized assessment data is not available, school districts may use equivalent measures as determined by the local governing board.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310 and 311, Education Code.

HISTORY

1. Renumbering and amendment of former section 11303 to new section 11309 filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11310. State Board of Education Review of Guidelines for Parental Exception Waivers.

(a) Upon written request of the State Board of Education, school district governing boards shall submit any guidelines or procedures adopted pursuant to Education Code section 311 to the State Board of Education for its review.

(b) Any parent or guardian who applies for a waiver under Education Code section 311 may request a review of the school district's guidelines or procedures by the State Board of Education. The sole purpose of the review shall be to make a determination as to whether those guidelines or procedures comply with the parental exception waiver guidelines set forth in Section 11309.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310 and 311, Education Code.

HISTORY

1. Renumbering and amendment of former section 11304 to new section 11310 filed 1-8-2003; operative 1-8-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

§ 11315. Community-Based English Tutoring (CBET) Programs.

In distributing funds authorized by Education Code sections 315, 315.5, 316, 316.5, and 317, the State Superintendent of Public Instruction (SSPI) shall allocate the funds and school districts shall disburse the funds at their discretion consistent with the following:

(a) The funds made available by Education Code sections 315, 315.5, 316, 316.5, and 317 shall be apportioned by the SSPI to school districts offering Community-Based English Tutoring (CBET) based upon the number of limited English proficient (LEP) pupils identified in the Annual Language Census Survey from the prior year.

(b) The governing boards of school districts may disburse these funds at their discretion to carry out the purposes of this section. School district governing boards shall require providers of adult English language instruction which receive funds authorized by Education Code sections 315, 315.5, 316, 316.5, and 317 to maintain evidence that adult program participants have pledged to provide personal English language tutoring to California school pupils with limited English proficiency.

(c) School districts may use these funds for expenses related to the CBET program, such as direct program services, community notifica-

tion, transportation services, and background checks on CBET tutors as authorized by Education Code sections 35021–35021.4 and 45349.

NOTE: Authority cited: Sections 316 and 33031, Education Code. Reference: Sections 313, 315, 315.5, 316, 316.5, 317, 35021, 35021.1, 35021.4, 45349 and 52164, Education Code.

HISTORY

1. Renumbering and amendment of former section 11305 to new section 11315 filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).
2. Amendment of section heading, section and NOTE filed 5–5–2008; operative 6–4–2008 (Register 2008, No. 19).

§ 11315.5. Duties of School Districts.

A school district applying for CBET funding shall provide certification to the State Board of Education (SBE) that:

(a) It has read and is familiar with the California Code of Regulations, title 5, sections 11315 and 11315.5; and

(b) It will develop a CBET plan pursuant to Education Code sections 315.5, 316.5 and 317. The plan shall be approved by the governing board of the school district and shall be reviewed and revised as necessary, or at a minimum of once every three years.

NOTE: Authority cited: Sections 316 and 33031, Education Code. Reference: Sections 315, 315.5, 316, 316.5 and 317, Education Code.

HISTORY

1. New section filed 5–5–2008; operative 6–4–2008 (Register 2008, No. 19).

§ 11315.6. Data Collection and Reporting.

(a) A school district participating in the CBET program shall maintain data that includes, but is not limited to:

(1) improvement in English literacy of adult English language learners participating as adult tutors in the CBET program;

(2) improvement in attendance of pupils participating in the tutoring program;

(3) achievement progress of K–12 pupils, who were tutored by adult CBET tutors, as measured by the California English Language Development Test (CELDT) administered under Education Code section 60810; and

(4) achievement progress of K–12 pupils, who were tutored by adult CBET tutors, as measured by the California Standards Tests (CSTs) administered under Education Code section 60640; and

(5) District-level assessments pursuant to Education Code section 317.

(b) A participating school district shall report the data maintained pursuant to subdivision (a) to the SBE upon request.

(c) In no event shall assessment results collected under subdivision (a) be communicated, in any way, to persons not already legally authorized to have that information.

NOTE: Authority cited: Sections 316 and 33031, Education Code. Reference: Sections 313, 315, 315.5, 316, 316.5, 317, 60640 and 60810, Education Code.

HISTORY

1. New section filed 5–5–2008; operative 6–4–2008 (Register 2008, No. 19).

§ 11316. Notice to Parents or Guardians.

All notices and other communications to parents or guardians required or permitted by these regulations must be provided in English and in the parents' or guardians' primary language to the extent required under Education Code section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313 and 48985, Education Code.

HISTORY

1. New section filed 1–8–2003; operative 1–8–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 2).

Subchapter 5. English Language Centers

HISTORY

1. Repealer of Chapter 5 (Sections 11400–11422) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 69, No. 51.

Subchapter 6. Summer Schools (Other Than Classes for Adults, Adult Schools, and Evening High Schools)

§ 11470. Application of Chapter.

This chapter applies to all summer schools receiving state reimbursement, except classes for adults, adult schools, and evening high schools.

NOTE: Authority cited: Sections 33031, 37250, 51731, 51761, and 52355, Education Code. Reference: Sections 37250, 37252, 51730–51732 and 51761, Education Code.

HISTORY

1. New Chapter 8 (§§ 11470–11474) filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of Chapter 6 (Sections 11440–11444) and renumbering of Chapter 8 (Sections 11470–11475) to Chapter 6 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).
4. Amendment filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).

§ 11471. Approval Required.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 37252, 37253, 42239 and 51730–51732, Education Code.

HISTORY

1. Amendment filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Repealer of section and amendment of NOTE filed 9–28–95; operative 9–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 39).

§ 11472. Courses Authorized.

In addition to mathematics and science authorized by Education Code section 37253(a), summer school courses may be offered in any of the areas of study specified in Education Code sections 51210(a) through (g) for grades 1 to 6 and 51220(a) through (j) for grades 7 to 12.

NOTE: Authority cited: Section 37253(d), Education Code. Reference: Sections 37253, 51210, 51220 and 51730–51732, Education Code.

HISTORY

1. Repealer filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).
2. New section filed 5–16–95 as an emergency; operative 5–16–95 (Register 95, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–13–95 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 39).
4. New section filed 9–28–95; operative 9–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 39).
5. Amendment filed 3–19–96; operative 4–18–96 (Register 96, No. 12).

§ 11473. Level of Difficulty.

NOTE: Authority cited: Sections 33031, 37250, 51731, 51761 and 52355, Education Code. Reference: Sections 37250, 37252, 51730–51732 and 51761, Education Code.

HISTORY

1. Repealer filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).

§ 11474. Time and Duration.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 37252, 37253, 42239 and 51730–51732, Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).
3. Repealer of section and amendment of NOTE filed 9–28–95; operative 9–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 39).

§ 11475. Work Experience Education.

NOTE: Authority cited: Sections 33031, 37250, 51731, 51761 and 52355, Education Code. Reference: Sections 37250, 37252, 51730–51732 and 51761, Education Code.

HISTORY

1. New section filed 5–18–72; effective thirtieth day thereafter (Register 72, No. 21).

2. Repealer filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).

Subchapter 7. Regional Occupational Centers and Regional Occupational Programs

§ 11500. Scope.

The provisions of this chapter apply to all Regional Occupational Centers and Regional Occupational Programs established and maintained under the authority of Article 1 (commencing with Section 52300), Chapter 9, Part 28, Division 4, Title 2* of the Education Code.

NOTE: Authority cited for Chapter 9: Section 152 (33031*), 7451.6 (52306*) and 7451.7 (52309*), Education Code. Reference: Chapter 14 (Sections 7450–7466) of Division 6 of Part 2 (Article 1 Sections 52300–52330, Chapter 9, Part 28, Division 4, Title 2*), Education Code.

HISTORY

1. New Chapter 9 (§§ 11500 through 11511) filed 4–23–71; effective thirtieth day thereafter (Register 71, No. 17).
2. Amendment filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).
3. Repealer of Chapter 7 (Sections 11460–11461) and renumbering of Chapter 9 (Sections 11500–11508) to Chapter 7 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45). *

§ 11501. Definitions.

(a) A Regional Occupational Center is a vocational or technical training program established and maintained in a separate, identifiable physical facility pursuant to Article 1, Chapter 9, Part 28, Division 4, Title 2* of the Education Code.

(b) "Region served" means the area of a county or counties which constitutes the attendance area of the high school district or districts that form the membership of a Regional Occupational Center and Program.

(c) A "school unit" within a participating district includes, but is not limited to: a community college, a high school, a continuation high school or continuation classes, an adult school or classes for adults, or a private school.

(d) "Course/class" means any credit or noncredit instructional unit in a subject area or field of organized knowledge, usually provided on a semester, year, or other prescribed length-of-time basis.

(e) "Section" means a multiple of identical classes in a specific subject having the same goals, objectives, and outcomes.

(f) "Curriculum" means the courses of study, courses, subjects, classes, section, and organized group activities provided by a school and/or Regional Occupational Center or Regional Occupational Program.

(g) "Unnecessary duplication of courses and programs" means that two local educational agencies or programs, including Regional Occupational Centers or Regional Occupational Programs offer the same vocational or adult course or program to the same type of student population using similar operational characteristics as to prerequisites unless one agency reports that it cannot meet the needs of all students requiring such courses and programs.

(h) "Supplanting" occurs when a course, class, or a section has been dropped by a school unit and is replaced by another educational agency, including a Regional Occupational Center or Regional Occupational Program, without major revision of the curriculum, student population served, and/or projected course outcomes.

(i) "Regional adult and vocational education councils" are those councils described in Article 2 (commencing with Section 8020), Chapter 1, Part 6, Division 1, Title 1* of the Education Code.

(j) "Individual vocational counseling and guidance services" means services designed to:

- (1) Identify and encourage the enrollment of individuals in courses offered by a Regional Occupational Center or Regional Occupational Program.
- (2) Provide the individuals with information necessary to make meaningful and informed occupational choices.
- (3) Assist students pursuing a program of vocational instruction in the Regional Occupational Center or Regional Occupational Program.

(k) A "county labor council, as used in subsection (a)(4) of Section 52306* of the Education Code," means the Central Labor Council or the Central Buildings and Trades Council having jurisdiction in the area served by the Regional Occupational Center or Regional Occupational Program.

NOTE: Authority cited: Section 52309, Education Code. Reference: Section 52309, Education Code.

HISTORY

1. New subsection (f) filed 4–19–74; effective thirtieth day thereafter (Register 74, No. 16).
2. Repealer of former Section 11501, amendment and renumbering of Section 11503 to 11501 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).
3. Amendment of subsection (c) filed 9–19–79; effective thirtieth day thereafter (Register 79, No. 38).

§ 11502. Applications for Establishment of Regional Occupational Centers or Regional Occupational Programs.

County Superintendents or cooperating school districts desiring to establish a Regional Occupational Center or a Regional Occupational Program shall submit an application to the State Board of Education that includes such detail as to both explain and justify the intended operation, including compliance with all requirements in this Chapter and those delineated in Chapter 14 of Division 6 of the Education Code.

HISTORY

1. Repealer of former Section 11502, amendment and renumbering of Section 11505 to 11502 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).

§ 11503. Course Approval.

curriculum provided by a Regional Occupational Center or a Regional Occupational Program shall be subject to the approval of the State Department of Education and shall comply with all requirements and standards set forth in the California State Plan for Vocational Education and this Chapter.

The State Department of Education shall periodically review approved courses for compliance with the California Five-Year State Plan for Vocational Education and this Chapter. A course found to be out of compliance shall be placed on conditional approval.

The State Department of Education shall withdraw course approval if a conditionally approved course is not brought into compliance.

All course approval records such as those documenting compliance with Section 11504(a) through (1) shall be maintained in the administrative office of each Regional Occupational Center or Regional Occupational Program for a period of three years and shall be subject to review and audit by the State Department of Education.

NOTE: Authority cited: Section 52309, Education Code. Reference: Section 52309, Education Code.

HISTORY

1. Amendment and renumbering of Section 11507 to 11503 filed 12–7–79; designated effective 7–1–77 (Register 76, No. 50).
2. Amendment filed 9–19–79; effective thirtieth day thereafter (Register 79, No. 38).

§ 11504. Course Appropriateness and Criteria for Course Approval.

(a) The only courses which are appropriate for a Regional Occupational Center and a Regional Occupational Program to offer are those courses which provide vocational or technical training for students who are not presently served through such courses offered by the high schools, community colleges, and adult schools in the region served by the Regional Occupational Center or Regional Occupational Program.

Generalized training courses are not appropriate. For the purpose of this section, "generalized courses" includes courses in general education, industrial arts, and basic adult education.

(b) Opportunity for enrollment shall be available to eligible students in the region served.

(c) The course does not unnecessarily duplicate course offerings already available in the region served. Consideration will be given to action taken by regional adult and vocational education councils.

(d) The course does not unnecessarily duplicate vocational educational opportunities offered by community colleges serving the same geographical region.

(e) The course provides vocational education opportunities for a greater number of students than would otherwise be possible.

(f) Evidence indicates that more efficient use is made of facilities, personnel and services than when the course is provided for the students of a school unit. Such evidence shall include, but is not limited to the following:

(1) The facility used and equipment in the Regional Occupational Center or Regional Occupational Program is better related to the needs of business, industry, and students.

(2) The facilities, equipment, and vocational instructional personnel of the Regional Occupational Center or Regional Occupational Program will be utilized by more students than would be utilized by a local high school unit.

(g) Opportunity is increased for vocational education services to students regardless of their geographical location or residence in the region served.

(h) Use of supportive resources for vocational education, including, but not limited to, industry cooperation and community facilities is increased.

(i) There is evidence that use is being made of subject area advisory committees in determining courses appropriate for Regional Occupational Centers or Regional Occupational Programs. Such evidence shall include, but not be limited to, the following:

(1) The majority of the committee membership shall represent the occupation for which instruction is given.

(2) Documentation of advisory committee minutes, with recommendations in regard to the course being offered, shall be on file.

(j) The courses offered in a Regional Occupational Center or Regional Occupational Program shall only be for providing training, upgrading, and retraining in recognized occupations and/or emerging occupations to meet the labor demand as determined and verified by the Regional Occupational Center or Regional Occupational Program.

(k) The course shall not unnecessarily reduce or supplant the vocational education efforts of any participating district but shall become an extension or augmentation of vocational education opportunities and enrollments in the participating districts.

(l) Instruction in the course is being provided by an instructor meeting the requirements pursuant to Education Code Section 52323, the California State Plan for Vocational Education, and providing immediate supervision and control as defined by Section 10091 of this title.

[The next page is 135.]

NOTE: Authority cited: Section 52309, Education Code. Reference: Section 52309, Education Code.

HISTORY

1. Amendment and renumbering of Section 11508 to 11504 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).
2. Repealer of subsection (l) and renumbering of subsection (m) to subsection (l) filed 9–19–79; effective thirtieth day thereafter (Register 79, No. 38).

§ 11505. Counseling and Guidance.

A Regional Occupational Center or a Regional Occupational Program shall provide individual vocational counseling and guidance directly supportive of, and contributory to, the instructional programs that constitute the course offerings of the Regional Center or Regional Occupational Program. The counseling and guidance services funded pursuant to the provisions of Article 1, Chapter 9, Part 28, Division 4, Title 2* of the Education Code shall not be construed as general support for guidance and counseling services for the total school enrollment or for the total vocational education enrollment in a school.

HISTORY

1. Amendment and renumbering of Section 11509 to 11505 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).

§ 11506. Evaluation.

Each Regional Occupational Center or Regional Occupational Program shall submit to the Department of Education in such detail, at such time, and in such manner as the Department of Education deems necessary, an evaluation of the Regional Occupational Center or Regional Occupational Program. This evaluation shall include but not be limited to the following information:

- (a) Analysis of the cost of individual centers, programs, and services.
- (b) Enrollments defined in terms of high school students, post-high school students, and adults.
- (c) Number of trainees employed in specific entry-level occupations.
- (d) Number of trainees continuing training in other institutions.
- (e) Dropout rates and placement data.
- (f) Activities pursuant to Education Code Sections 52305(c), 52306 and 52307.

HISTORY

1. New subsection (f) filed 4–19–74; effective thirtieth day thereafter (Register 74, No. 16).
2. Renumbering of Section 11510 to 11506 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).
3. Amendment of subsection (f) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 11507. Administration.

Each Regional Occupational Center or Regional Occupational Program shall be organized and administered in such manner that there will be a clear and separate audit trail of all income and expenditures, of all agreements and contracts, of enrollments, and of all other statistical information pertaining to fiscal and instructional accountability.

HISTORY

1. Renumbering of Section 11511 to 11507 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).

§ 11508. Establishing and Operating Business, Commercial, Trade, Manufacturing or Construction Activities.

(a) Regional occupational centers and regional occupational programs may establish and operate business, commercial, trade, manufacturing or construction activities which may include the sale of products or services to private or public corporations or companies, or to the general public as authorized in subdivision (c) of Education Code Section 52305.

(b) Where the activities described in subsection (a) of this section include the sale of products or services to private or public corporations or companies, or to the general public, the regional occupational center or regional occupational program shall request prior approval from the State Department of Education. Application for approval shall be submitted on a form prescribed by the Superintendent of Public Instruction

and the proposal therein shall comply with all the conditions set forth in Education Code Sections 52306 and 52307.

HISTORY

1. New section filed 4–19–74; effective thirtieth day thereafter (Register 74, No. 16).
2. Renumbering of Section 11512 to 11508 filed 12–7–76; designated effective 7–1–77 (Register 76, No. 50).
3. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 7.5. California English Language Development Test

Article 1. General

§ 11510. Definitions.

For the purposes of the test required by Education Code Section 313(a), referred to as the California English Language Development Test, the following definitions shall apply:

(a) "Accommodation" is any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. "Accommodations" may include variations in scheduling, setting, aids, equipment, and presentation format.

(b) An "administration" means a pupil's attempt to take all sections of the California English Language Development Test, including listening, speaking, reading, and writing.

(c) "Alternate Assessment" is an alternate means to measure the English language proficiency of pupils with disabilities whose Individualized Education Program Team has determined that they are unable to participate in the California English Language Development Test even with accommodations, variations, or modifications.

(d) "Annual assessments" are administrations of the California English Language Development Test to enrolled pupils who are currently identified as English learners.

(e) "Annual assessment window" begins on July 1 and ends on October 31 of each school year.

(f) "Date of first enrollment" is the date on which the pupil is scheduled to be in attendance in a California public school for the first time.

(g) "Department" is the California Department of Education.

(h) "District coordinator" is an employee of the school district designated by the superintendent of the district to oversee the administration of the CELDT within the district.

(i) "Excessive materials" is the difference between the sum of the number of tests scored and 90 percent of the tests ordered by the district.

(j) "Grade level" is the grade assigned to the pupil by the school district at the time of testing.

(k) "Home language survey" is a form administered by the school district to be completed by the pupil's parent or guardian at the time of first enrollment in a California public school indicating language use in the home which, if completed, fulfills the school district's obligation required by Education Code Section 52164.1.

(l) "Initial assessment" is the administration of the California English Language Development Test to a pupil whose primary language is other than English, as determined by the Home Language Survey, and who has not previously been assessed for English language proficiency in a California public school.

(m) "Modification" is any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores.

(n) "Primary" language is the language first learned by the pupil, most frequently used at home, or most frequently spoken by the parents or other adults in the home when speaking with the pupil.

(o) "Proctor" is an employee of a school district who has received training specifically designed to prepare him or her to assist the test examiner in administration of the California English Language Development Test.

(p) "Pupil" is a person enrolled in a California school district in kindergarten through grade 12, or in ungraded programs, including those pupils placed in a nonpublic school through the Individualized Education Program (IEP) process pursuant to Education Code Section 56365.

(q) "Records of results" are:

- (1) Student test results from the pupil's cumulative file;
- (2) Parent notification letter of student results;
- (3) Previous or current school district pupil electronic data files;
- (4) Student Proficiency Level Reports; and
- (5) Verification from prior school district.

(r) "School districts" include elementary, high school, and unified school districts, county offices of education, and any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter, and any charter school chartered by the State Board of Education.

(s) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP and is required to transcribe a pupil's responses to the format required by the test. The pupil's parent or guardian is not eligible to be a scribe.

(t) "Site coordinator" is an employee of the school district designated by the district coordinator or the superintendent, or a person assigned by a nonpublic school to implement a student's IEP, who oversees the administration of the CELDT at each test site at which the examination is given.

(u) "Test" is the California English Language Development Test.

(v) "Test Examiner" is an employee of the school district who is proficient in English and has received training specifically designed to prepare him or her to administer the test.

(w) "Test materials" are materials necessary for administration of the California English Language Development Test, including but not limited to audio-cassettes, test manuals, pupil test booklets, forms for recording pupil responses and background information, video tapes, answer keys, scoring rubrics, special test versions, and any other materials developed and provided by the contractor.

(x) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to, accommodations and modifications.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 52164.1 and 60810, Education Code.

HISTORY

1. New subchapter 7.5 (articles 1–4), article 1 (section 11510) and section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of subsection (f), repealer of subsection (j) and amendment of NOTE filed 4–14–2003; operative 4–14–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).
3. Amendment filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

Article 2. Administration

§ 11511. Initial and Annual Assessments.

(a) Initial assessments shall be administered as follows:

(1) Any pupil whose primary language is other than English as determined by the home language survey and who has not previously been identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be assessed for English language proficiency with the test within 30 calendar days after the date of first enrollment in a California public school, or within 60 calendar days before the date of first enrollment, but not before July 1 of that school year.

(b) Annual assessments shall be administered as follows:

The English language proficiency of all currently enrolled English learners shall be assessed by administering the test during the annual assessment window.

(c) Both Initial and Annual assessments shall be administered in accordance with the test contractor's directions, except as provided for in Sections 11516, 11516.5, and 11516.6.

(d) For both Initial and Annual assessments, the school district is responsible for the cost of excessive materials ordered by the school district. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the test contractor by the California Department of Education as part of the contract with the test contractor for the current year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a), 313 and 37200, Education Code.

HISTORY

1. New article 2 (sections 11511–11514) and section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of section heading and section filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11511.5. Reporting to Parents.

For each pupil assessed using the test, each school district shall notify parents or guardians of the pupil's results within 30 calendar days following receipt of results of testing from the test contractor. The notification shall comply with the requirements of Education Code Section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a), 313 and 48985, Education Code.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11511.6. Reporting Test Scores.

No aggregate or group scores or reports that are compiled pursuant to Education Code Section 60851 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, if the aggregate or group scores or reports are composed of three (3) or fewer individual pupil scores. In each instance in which no score is reported for this reason, the notation shall appear: "The number of pupils in this category is too small for statistical accuracy or privacy protection." In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49076, 60810 and 60812, Education Code; 20 USC Section 1232(g).

HISTORY

1. Amendment filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11512. District Documentation and Pupil Records.

(a) The school district shall maintain a record of all pupils who participate in each administration of the test. This record shall include the following information for each administration:

- (1) The name of each pupil who took the test.
- (2) The grade level of each pupil who took the test.
- (3) The date on which the administration of the test was completed for each pupil.

(4) The test results obtained for each pupil.

(b) The school district shall enter in each pupil's record the following information for each administration of the test:

- (1) The date referred to by subdivision (a)(3).
- (2) The pupil's test results.

(c) The record required by subdivision (a) shall be created and the information required by subdivision (b) of this section shall be entered in each pupil's record prior to the subsequent administration of the test.

(d) In order to comply with the accountability requirements under Title III of No Child Left Behind, part A, Section 3122 of the Elementary and Secondary Education Act (Public Law 107–110), whenever a pupil transfers from one school district to another, the pupil's CELDT records including the information specified in Section 11512(a) shall be trans-

ferred by the sending district within 20 calendar days upon a request from the receiving district where the pupil is now enrolled.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a), 313(b), 49068 and 60810(d), Education Code; and 20 USC Sections 6841–6842.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of subsections (a) and (c), new subsection (d) and amendment of NOTE filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11512.5. Data for Analysis of Pupil Proficiency.

(a) Each school district shall provide the test contractor the following information for each pupil tested for purposes of the analyses and reporting required pursuant to Education Code sections 60810(c) and 60812, and for accountability requirements under Title III of No Child Left Behind, Part A, Section 3122 of the Elementary and Secondary Education Act (Public Law 107–110):

- (1) Pupil's full name;
- (2) Date of birth;
- (3) County, district, school code;
- (4) Date that testing was completed;
- (5) Grade level;
- (6) Gender;
- (7) Primary language;
- (8) Program participation;
- (9) Special education and 504 plan status;
- (10) Primary Disability;
- (11) Ethnicity;
- (12) Year first enrolled in a United States school;
- (13) School mobility.
- (14) CELDT scores from the previous test administration;
- (15) Purpose: an initial assessment or an annual assessment;
- (16) District and County of residence for pupils with disabilities;
- (17) Grade level from the previous CELDT administration;
- (18) Use of test modifications and/or accommodations;
- (19) Use of Alternate Assessment(s); and
- (20) California School Information Services (CSIS) student number once assigned.

(b) The demographic information required by subdivision (a) is for the purposes of aggregate analyses and reporting only.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313, 60810 and 60812, Education Code; and 20 USC Sections 6841–6842.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of subsection (a)(11) and amendment of NOTE filed 4–14–2003; operative 4–14–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).
3. Amendment of section and NOTE filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11513. California English Language Development Test District Coordinator.

(a) On or before April 1, or 90 calendar days before the beginning of the annual assessment window of each school year, the superintendent of each school district shall designate from among the employees of the school district a California English Language Development Test district coordinator. The superintendent shall notify the test contractor of the identity and contact information for the California English Language Development Test district coordinator. The California English Language Development Test district coordinator, or the school district superintendent or his or her designee, shall be available throughout the year and shall serve as the liaison between the school district and the California Department of Education for all matters related to the test. At the discretion of the district superintendent, the contact information may include an electronic email address.

(b) The California English Language Development Test district coordinator's responsibilities shall include, but are not limited to, the following:

(1) Responding to correspondence and inquiries from the contractor in a timely manner and as provided in the contractor's instructions.

(2) Determining school district and individual school test and test material needs in conjunction with the test contractor.

(3) Overseeing the acquisition and distribution of tests and test materials to individual schools and sites.

(4) Maintaining security over the test and test data using the procedure set forth in Section 11514. The California English Language Development Test district coordinator shall sign the Test Security Agreement set forth in Section 11514 with the test contractor prior to receipt of the test materials. A copy of the Test Security Agreement shall be maintained at the district office for 12 months from the date signed.

(5) Overseeing the administration of the test to pupils.

(6) Overseeing the collection and return of all completed test materials and test data to the contractor.

(7) Assisting the test contractor in the resolution of any discrepancies in the test information and materials.

(8) Ensuring that all test materials are received from school test sites within the school district in sufficient time to satisfy the requirements of subdivision (10).

(9) Ensuring that all tests and test materials received from school test sites within the school district have been placed in a secure school district location upon receipt of those tests.

(10) Ensuring that all test materials are inventoried, packaged, and labeled in accordance with instructions from the test contractor. The completed test materials shall be returned to the test contractor at the date specified monthly by the test contractor for initial assessments of pupils but no later than ten (10) working days after the close of the testing window for the annual assessment.

(11) Ensuring that the tests and test materials are retained in a secure, locked location, in the unopened boxes in which they were received from the test contractor, from the time they are received in the school district until the time they are delivered to the test sites.

(12) Overseeing the collection of all pupil data to comply with Sections 11512 and 11512.5.

(13) Immediately notifying the test contractor of any security breaches or testing irregularities in the district before, during, or after the administration of the test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and 60810(d), Education Code.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11513.5. California English Language Development Test Site Coordinator.

(a) Annually, the superintendent of the school district shall designate a California English Language Development Test site coordinator for each test site, including, but not limited to, each charter school, each court school, and each school or program operated by a school district, from among the employees of the school district. The California English Language Development Test site coordinator, or the site principal or his or her designee, shall be available to the California English Language Development Test district coordinator for the purpose of resolving issues that arise as a result of the administration of the test.

(b) The California English Language Development Test site coordinator's responsibilities shall include, but not be limited to, all of the following:

(1) Determining site test and test material needs.

(2) Arranging for test administration at the site.

(3) Completing the Test Security Agreement and Test Security Affidavit prior to the receipt of test materials.

(4) Delivering test materials only to those persons who have executed Test Security Agreements and who are administering the test.

(5) Overseeing test security requirements, including collecting and delivering all completed Test Security Affidavit forms to the district office from the test examiners and other site personnel involved with testing.

(6) Maintaining security over the test and test data as required by Section 11514.

(7) Overseeing the acquisition of tests from the school district and the distribution of tests to the test examiner(s).

(8) Overseeing the administration of the test to pupils at the test site.

(9) Overseeing the collection and return of all testing materials to the California English Language Development Test district coordinator.

(10) Assisting the California English Language Development Test district coordinator and the test contractor in the resolution of any discrepancies between the number of tests received from the California English Language Development Test district coordinator and the number of tests collected for return to the California English Language Development Test district coordinator.

(11) Overseeing the collection of all pupil data required by Sections 11512 and 11512.5.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and 60810(d), Education Code.

HISTORY

1. New section filed 10-4-2001; operative 11-3-2001 (Register 2001, No. 40).
2. Amendment of section and NOTE filed 6-9-2005; operative 6-9-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11514. Test Security.

(a) The California English Language Development Test site coordinator shall ensure that strict supervision is maintained over each pupil while the pupil is being administered the test.

(b) Access to the test materials is limited to pupils being administered the test and employees of the school district directly responsible for administration of the test who have signed the Test Security Affidavit set forth in subdivision (g).

(c) All California English Language Development Test district and test site coordinators shall sign the Test Security Agreement set forth in subdivision (d).

(d) The Test Security Agreement shall be as follows:

CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST TEST SECURITY AGREEMENT

(1) I will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the test's security.

(2) I will keep on file the names of persons having access to tests and test materials. I will require all persons having access to the materials to sign the Test Security Affidavit that will be kept on file in the school district office.

(3) I will keep the tests and test materials in a secure, locked location, limiting access to only those persons responsible for test security, except on actual testing dates.

By signing my name to this document, I am assuring that I will abide by the above conditions.

By: _____
Title: _____
School District: _____
Date: _____

(e) Each California English Language Development Test site coordinator shall deliver the tests and test materials only to those persons actually administering the test on the date of testing and only upon execution of the Test Security Affidavit set forth in subdivision (g).

(f) All persons having access to the test, including but not limited to the California English Language Development Test site coordinator, test examiners, and test proctors, shall acknowledge the limited purpose of their access to the test by signing the Test Security Affidavit set forth in subdivision (g).

(g) The Test Security Affidavit shall be completed by each test examiner and test proctor:

CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the test for the purpose of administering the test. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test or test materials unless necessary to administer the test.

(3) I will keep the test secure until the test is actually distributed to pupils.

(4) I will limit access to the test and test materials by test examinees to the actual testing periods when they are taking the test.

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

(6) I will not disclose the contents of, or the scoring keys to, the test instrument.

(7) I will not review any test questions, passages or other test items with pupils before or after testing.

(8) I will administer the test(s) in accordance with the directions for test administration set forth in the contractor's manual for test administration.

(9) I will return all test materials to the designated California English Language Development Test site coordinator upon completion of the test.

(10) I will not interfere with the independent work of any pupil taking the test and I will not compromise the security of the test by means including, but not limited to:

(A) Providing pupils with access to test questions prior to testing.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any portion of any secure California English Language Development Test booklet or document.

(C) Coaching pupils during testing or altering or interfering with the pupil's responses in any way.

(D) Making answer keys available to pupils.

(E) Failing to follow security rules for distribution and return of secure tests as directed, or failing to account for all secure test materials before, during, and after testing.

(F) Failing to follow test administration directions specified in test administration manuals.

(G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts prohibited in this section.

I have been trained to administer the test.

Signed: _____

Print Name: _____

Position: _____

School: _____

School District: _____

Date: _____

(h) To maintain the security of the test, all California English Language Development Test district and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

(i) The security of the test materials that have been duly delivered to the school district by the test contractor is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the test contractor.

(j) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district by the test contractor.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313, Education Code.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

Article 3. Test Variations/Accommodations/Modifications

§ 11516. Variations.

- (a) School district may provide all pupils the following variations:
- (1) Test directions that are simplified or clarified in English for the Reading and Writing sections.
 - (2) Sufficient time to complete the test as provided in the directions for test administration.
 - (b) School districts may provide all pupils the following variations if regularly used in the classroom:
 - (1) Special or adaptive furniture;
 - (2) Special lighting or acoustics, visual magnifying, or audio amplification equipment;
 - (3) An individual carrel or study enclosure;
 - (4) Covered overlay, masks, or other means to maintain visual attention to the test consistent with contractor's test directions;
 - (5) Test individual in a separate room provided that the pupil is directly supervised by an employee of the school district or nonpublic school who has signed the Test Security Affidavit; and
 - (6) Manually Coded English or American Sign Language to present directions for administration (does not apply to test questions).
 - (c) If a school district proposed the use of a variation on the test that is not listed in this section, 11516.5, or 11516.6, the school district may submit a request to the department for review of proposed variation in administering the test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 37200, Education Code; and 20 USC Section 6311.

HISTORY

1. New article 3 (sections 11516-11516.5) and section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of article heading and section heading, repealer and new section and amendment of NOTE filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11516.5. Accommodations.

- (a) Pupils with disabilities shall be permitted to take the test with those accommodations listed in subsections (b) through (e), if specified in the pupil's IEP or Section 504 plan for use on the test, standardized testing, or for use during classroom instruction and assessments.
- (b) Presentation accommodations:
- (1) Braille transcriptions provided by the test contractor;
 - (2) Large print versions reformatted from regular print version;
 - (3) Test items enlarged through electronic means;
 - (4) Audio or oral presentation of questions or items for the writing section;
 - (5) Use of Manually Coded English or American Sign Language to present test questions for the writing section;
 - (6) Test over more than one day for a test or test part to be administered in a single setting;
 - (7) Supervised breaks within a section of the test; and
 - (8) Administration of the test at the most beneficial time of day to the student.
- (c) Response accommodations:
- (1) For grades 3–12, Listening, Reading and Writing sections, student marks responses in test booklet and the responses are transferred to the answer document by a school or school district employee who has signed the Test Security Affidavit;
- (2) For grades 2–12, Listening, Reading and Writing sections, responses dictated to a scribe for selected response items or multiple-choice items;

(3) For kindergarten and grades 1–12, Speaking section, responses dictated to a scribe for selected response items or multiple-choice items;

(4) For the Writing section, responses dictated to a scribe, audio recorder or speech to text converter and the pupil indicates all spelling and language conventions; and

(5) For the Writing section, use word processing software with the spell and grammar check tools turned off.

(d) For the Writing section, use of an assistive device that does not interfere with the independent work of the pupil.

(e) Setting accommodations include:

(1) Test at home or in hospital, by a test examiner.

(f) If the eligible pupil's or adult student's IEP team or Section 504 plan proposes a variation for use on the test that has not been listed in this section, 11516, or 11516.6, the school district may submit a request to the department for review of the proposed variation in administering the test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a), 313 and 37200, Education Code; and 20 USC Section 6311.

HISTORY

1. New section filed 10–4–2001; operative 11–3–2001 (Register 2001, No. 40).
2. Amendment of section heading, section and NOTE filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11516.6. Modifications for Pupils with Disabilities.

(a) Pupils with disabilities shall be permitted to take the test with the following modifications if specified in the pupil's IEP or Section 504 plan for use on the test, standardized testing, or for use during classroom instruction and assessments.

(b) The following are modifications because they fundamentally alter what the examination measures or affect the comparability scores. Modifications include but are not limited to the following procedures:

(1) For the Reading section, questions or items read aloud to the student or audio presentation;

(2) For the Listening/Speaking and Reading section, use of Manually Coded English or American Sign Language to present test questions;

(3) For the Writing section, essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe, audio recorder, or speech to test converter (scribe provides spelling, grammar, and language conventions);

(4) Use of a dictionary;

(5) For the Writing section, use of word processing software with spell and grammar check tools enabled on the essay responses;

(6) For the Writing section, use of an assistive device that interferes with the independent work of the student, including mechanical or electronic devices that are not used solely to record the pupil's responses, including but not limited to transcribers, scribes, voice recognition or voice to text software, and that identify a potential error in the pupil's response or that correct spelling, grammar, or conventions.

(c) A pupil who takes the test with one or more modifications shall receive a scored marked "not valid" for the sections of the test on which modifications were used accompanied by the notation that a score marked "not valid" was obtained through use of alternate procedures which may affect the validity of the test.

(d) If the pupil's or adult student's IEP or Section 504 plan proposes a variation for use on the test that has not been listed in this section, 11516, or 11516.5, the school district may submit a request for review of proposed variations in administering the test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306(a), 313 and 37200, Education Code; 20 USC Section 6311.

HISTORY

1. New section filed 6–9–2005; operative 6–9–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11516.7. Alternate Assessments for Pupils with Disabilities.

(a) Pupils with disabilities who are unable to participate in the entire CELDT or a section of the test with variations, accommodations or modifications shall be administered alternate assessments for English language proficiency as set forth in the pupil's IEP.

(b) Pupils who participate in the Test Program using alternate assessment procedures shall receive a score marked not valid for the sections of the test in which alternate assessments were administered.

NOTE: Authority cited: Section 33031, Education Code. Reference: 20 USC Section 6311; 34 CFR Section 300.138(b)(1)(2).

HISTORY

1. New section filed 6-9-2005; operative 6-9-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

Article 4. Apportionment

§ 11517. Apportionment to School Districts.

The amount of funding to be apportioned to the school district for the costs of administering the test shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering the test to pupils in kindergarten to grade 12, inclusive, in the school district. The number of tests administered shall be determined by the certification of the school district superintendent pursuant to Section 11517.

NOTE: Authority cited: Sections 33031 and 60810, Education Code. Reference: Sections 313 and 60810, Education Code.

HISTORY

1. New article 3 (section 11517) and section filed 10-4-2001; operative 11-3-2001 (Register 2001, No. 40).
2. Amendment of subsections (a) and (c) and amendment of NOTE filed 4-14-2003; operative 4-14-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 6-9-2005; operative 6-9-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

§ 11517.5. Apportionment Information Report.

(a) Annually, each school district shall receive an Apportionment Information Report that shall include the following information for those tests administered during the previous fiscal year (July 1 through June 30):

(1) The number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration.

(2) The Department shall distribute the Reports to districts no later than November 15 following each testing window.

(b) To be eligible for apportionment payment, school district must meet the following conditions:

(1) The superintendent of each school district has certified the accuracy of the apportionment information report for tests administered during the prior fiscal year (July 1 through June 30), which is either:

(A) Postmarked by December 31, or

(B) If postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code Section 33050. For those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

(C) The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education to enable school districts to meet the requirements of Education Code Section 60810 by the number of pupils in the school district tested with the CELDT during the previous fiscal year as determined by the apportionment information report and as certified by the school district superintendent pursuant to subdivision (b)(1)(B).

NOTE: Authority cited: Sections 33031 and 60810, Education Code. Reference: Sections 313 and 60810, Education Code.

HISTORY

1. New section filed 6-9-2005; operative 6-9-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

Subchapter 8. High School Proficiency Certificates

Article 1. Certificate of Proficiency

§ 11520. Definitions.

(a) "Parent" as used in Education Code Section 48410(e), relating to verified parental approval, means the natural parent, or adoptive parent or guardian, having legal custody of the pupil.

NOTE: Authority cited: Sections 48410, 48412 and 51426, Education Code.

HISTORY

1. New Article 1 (Sections 11520-11522) filed 11-21-75; effective thirtieth day thereafter (Register 75, No. 47).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Editorial correction to title of Article 1 (Register 79, No. 4).
4. Renumbering of Chapter 10 (Sections 11520-11532) to Chapter 8 filed 11-7-79; effective thirtieth day thereafter (Register 79, N. 45). For prior history of Chapter 10, see Register 74, No. 3.

§ 11521. Placement on Pupil Transcript.

A school district shall, for each pupil who demonstrates proficiency as provided in Education Code Section 48410(e), indicate the pupil's accomplishment and the date of the proficiency certificate award on the pupil's official transcript.

HISTORY

1. Amendment filed 7-18-78; effective thirtieth day thereafter (Register 78, No. 29).

§ 11522. Requirement for Exemption from School Attendance Form.

Each school district shall develop a form which evidences parental consent for exemption from further compulsory school attendance pursuant to Education Code Section 48410(e). The form shall be made available upon request to 16- and 17-year-old pupils who have demonstrated proficiency. The form shall contain at least the following information:

(a) A general explanation of the pupil's rights of exemption from compulsory school attendance and of re-enrollment in the public high schools.

(b) The date of issuance of a certificate of proficiency.

(c) The signature of the parent and the date.

(d) The signature of a school administrator who has personally confirmed the authenticity of the parent's signature and the date.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 7-18-78; effective thirtieth day thereafter (Register 78, No. 29).

§ 11523. Examination Announcements.

The school district superintendent shall require the principal of each school maintaining either or both of grades 11 and 12 to distribute to each pupil in those grades an announcement explaining the California High School Proficiency Examination provided for under Education Code

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Section 48412. Upon receipt of the announcements from the State Department of Education or its contractor, distribution shall be made in time sufficient to enable interested pupils to meet all examination registration requirements for the fall test of that year.

NOTE: Authority cited: Sections 33031 and 48412, Education Code. Reference: Sections 48410(e) and 48412, Education Code.

HISTORY

1. New section filed 9–15–78 as an emergency; effective upon filing (Register 78, No. 37).
2. Certificate of Compliance filed 11–16–78 (Register 78, No. 46).

Article 2. High School Equivalency Certificate (G.E.D.)—for Persons 18 Years of Age or Older

§ 11530. Definitions.

(a) “Resident of this State” means a person who either presently lives in the State of California, or who has his domicile in California in accordance with the criteria established in Government Code section 244.

(b) “A general educational development test” means a specific series of the General Educational Development Test adopted by the General Educational Development Testing Service of the American Council on Education.

(c) “A score equal to the standard of performance expected” means the following: For examinees that take the GED in the English Language prior to January 1, 2002 and for examinees that take the GED in the Spanish language prior to January 1, 2003, the standard for passage is a standard score of not less than 40 on each of the 5 tests and a total standard score of not less than 225 on the 5 tests of the battery. Beginning January 1, 2002, the standard for passage for the English Language version of the battery is a standard score of not less than 410 on each of the 5 tests and a total average standard score of not less than 450 for the entire battery. Beginning January 1, 2003, the standard for passage for the Spanish language version of the GED is a standard score of not less than 410 on each of the 5 tests and a total average standard score of not less than 450 for the entire battery.

(d) “Testing center approved by the Department of Education” means a testing center recognized as an official testing facility by the American Council on Education, General Educational Development Testing Service and its Overseas Branch.

(e) “Fee” to accompany each application for an equivalency certificate shall be \$20.00 and shall be nonrefundable irrespective of whether or not a California High School Equivalency Certificate is granted. This fee shall be charged only once for a given series of the General Educational Development Test.

(f) “Certificate” means a document containing the words “California High School Equivalency Certificate.”

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420, 51421 and 51425, Education Code.

HISTORY

1. New chapter 10 (sections 11530 through 11532) filed 1–18–74; effective thirtieth day thereafter (Register 74, No. 3).
2. Heading and designation of sections 11530–11532 as article 2 filed 11–21–75; effective thirtieth day thereafter (Register 75, No. 47).
3. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment of subsection (b) filed 5–21–82; effective thirtieth day thereafter (Register 82, No. 21).
5. Amendment of subsection (c) filed 6–21–84; effective thirtieth day thereafter (Register 84, No. 25).
6. Amendment of subsection (e) filed 5–27–86 as an emergency; effective upon filing (Register 86, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–24–86.
7. Certificate of Compliance filed 8–7–86 (Register 86, No. 32).
8. Amendment of subsection (e) filed 6–8–90; operative 7–1–90 pursuant to Education Code section 51421 (Register 90, No. 31).
9. Amendment of subsection (c) filed 11–6–91; operative 12–6–91 (Register 92, No. 8).
10. Amendment of subsection (e) filed 4–10–96; operative 5–10–96 (Register 96, No. 15).

11. Amendment filed 1–24–2002 as an emergency; operative 1–24–2002 (Register 2002, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–24–2002 or emergency language will be repealed by operation of law on the following day.

12. Certificate of Compliance as to 1–24–2002 order, including amendment of subsection (c), transmitted to OAL 5–1–2002 and filed 6–11–2002 (Register 2002, No. 24).

13. Amendment of subsection (e) filed 9–22–2004; operative 9–22–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

§ 11531. Approval of General Educational Development Testing Centers.

(a) A General Educational Development Testing Center may be approved by the Superintendent of Public Instruction to administer tests for purposes of Education Code Section 51420 provided it has complied with all of the following:

(1) Fulfilled the requirements of the General Educational Development Testing Service.

(2) Provided the State Department of Education with all required information indicating:

(A) Name of Institutional Chief Administrative Officer and title.

(B) Name of Chief Examiner and Alternate Examiner(s) and their titles.

(C) Name of testing facility.

(D) Contracting agency or school district.

(E) Address of the testing center.

(3) Agreed to comply with all test security requirements provided by the State Department of Education and to maintain all required records regarding tests and testing activities.

(4) Agreed to provide each examinee with his or her test scores.

(5) Agreed to inspection by authorized representatives of the State Department of Education or other agency performing the same function outside of California.

(b) The Superintendent of Public Instruction may suspend or revoke the approval, or deny renewal of an approval, of any center for failure or refusal to maintain any one or more of the standards described in subdivision (a) of this section.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420, 51422 and 51423, Education Code.

HISTORY

1. Amendment filed 5–21–82; effective thirtieth day thereafter (Register 82, No. 21).
2. Amendment filed 1–24–2002 as an emergency; operative 1–24–2002 (Register 2002, No. 4). A Certificate of Compliance must be transmitted to OAL by 5–24–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–24–2002 order transmitted to OAL 5–1–2002 and filed 6–11–2002 (Register 2002, No. 24).

§ 11532. Eligibility to Take a GED Test.

(a) A person is eligible to take a general educational development test no sooner than 60 days prior to the date he or she is eligible to receive a certificate pursuant to Education Code Section 51420(c).

(b) The 60 day limitation in subdivision (a) does not apply to any person who is 17 years of age or older who has been out of school for at least 60 days and who submits a letter of request for the test from the military, a postsecondary educational institution or a prospective employer.

(c) Any person who is 17 years of age or older who is incarcerated in a California state or county correctional facility and who meets the following criteria is eligible to take the GED test:

(1) The person does not have a realistic chance of completing the requirements for a high school diploma.

(2) The person has adequate academic skills to successfully complete the GED test battery.

(3) The person understands the options available regarding acquisition of a high school diploma, the high school equivalency certificate or the high school proficiency certificate, and the requirements, expectations, benefits and limitations of each option.

(4) The person has sufficient commitment time left to complete the entire GED test battery before release; or if released before completion of the test, may complete testing at an authorized testing center.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420 and 51422, Education Code.

HISTORY

1. New section filed 12-31-84; effective thirtieth day thereafter (Register 85, No. 1). For prior history, see Register 83, No. 41.
2. New subsection (c) filed 6-11-92; operative 7-13-92 (Register 92, No. 24).

Subchapter 9. Vocational Education Contracts

Article 1. General Provisions

§ 11535. Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) Course. "Course" means an instructional unit of an area or field of organized knowledge, usually provided on a semester, year, or prescribed length-of-time basis.

(b) Program. A "program" is an organized sequence of courses of instruction leading to a defined objective, degree, certificate, diploma, or license.

(c) Student. A "student" is any individual enrolled in a public entity who may benefit from the vocational instruction under contract with a private postsecondary school and has either reached his or her 16th birthday or junior class standing in a public secondary school, or who has been recommended by the chief school administrator of the public entity to participate in instruction provided by a private entity.

NOTE: Authority cited: Sections 33031 and 8092, Education Code. Reference: Section 8092, Education Code.

HISTORY

1. New Chapter 11 (Sections 11535-11540, 11542, 11544 and 11545) filed 3-7-74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Chapter 11 (Sections 11535-11545) to Chapter 9 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
4. Repealer of former Section 11535 and renumbering and amendment of former Section 11538 to Section 11535 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

§ 11536. Application for Approval.

Application for approval shall be submitted on a form prescribed by the Superintendent of Public Instruction.

NOTE: Authority cited: Sections 8092 and 33031, Education Code. Reference: Section 8092, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer of former Section 11536 and renumbering and amendment of former Section 11539 to Section 11536 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Article 2. Contracting Standards

§ 11537. Standards.

The following standards shall be employed by the Department of Education in determining the appropriateness of vocational education to be provided by private postsecondary schools through contracts with public agencies:

(a) Employment/training needs and job opportunities have been identified that directly relate to the instruction to be offered under contract.

(b) The proposed program or course does not unnecessarily duplicate offerings available in the region served.

(c) The program or course provides vocational education opportunities for a greater number of students than would otherwise be possible.

(d) Each student eligible for enrollment must meet the criterion as defined in subdivision (c) of Section 11535.

(e) The contracted services shall not reduce or supplant existing vocational education efforts of the public entity but shall become an extension or augmentation of vocational education opportunities and enrollments in the participating public entities.

(f) All programs and courses of instruction shall meet the standards set forth in the California State Plan for Vocational Education.

(g) The public entity establishes and maintains, in accordance with the provisions of the California School Accounting Manual, a clear and separate audit trail of all fiscal, enrollment, and statistical data. Such records shall be maintained for not less than five years and shall be made available for audit.

NOTE: Authority cited: Sections 8092 and 33031, Education Code. Reference: Section 8092, Education Code.

HISTORY

1. Repealer of former Section 11537 and renumbering and amendment of Section 11542 to Section 11537 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Article 3. Contract Provisions

§ 11538. Terms and Conditions.

Each contract shall expressly include, but not be limited to, the following provisions:

(a) Methods for identifying costs and payment procedures for compliance with subdivisions (2) and (3) of Education Code Section 8092.

(b) Performance objectives for each instructional area.

(c) Designation of responsibility for maintaining records of student attendance and achievement. Such records shall be available for review at any time by the State Department of Education.

(d) Instruction shall be provided only under the immediate supervision and control of teachers who hold valid California credentials authorizing the vocational subject to be taught.

(e) That the contractor provide indemnity and defense for the State and public entity, and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense may be provided either by an appropriate hold harmless clause or a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the State and public entity, along with their respective officers and employees, as additional insured.

(f) Except when prohibited by law the contractor provide, at his own expense, workers' compensation insurance coverage for any student who performs services or manufactures or assembles products that represent actual or potential income for the contractor.

(g) That the contractor is in compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Higher Education Act of 1972, and all applicable local, state and federal health and safety regulations.

(h) Procedures relating to: transfer of students between the public entity and contractor; number of class hours sufficient to meet the stated performance objectives; and withdrawal of students prior to completion of a course or program.

(i) Terms and conditions relating to enrollment period and cancellation and termination of the contract.

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Renumbering and amendment of former Section 11538 to Section 11535 and renumbering and amendment of former Section 11545 to Section 11538 filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

§ 11540. Reporting.

HISTORY

1. Repealer filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

§ 11544. Support.

HISTORY

1. Repealer filed 10-6-83; effective thirtieth day thereafter (Register 83, No. 41).

Subchapter 10. Bilingual Education

Article 1. Bilingual Teacher Corps Program

§ 11600. Program.

The purpose of the Bilingual Teacher Corps program is to recruit and insure the training of bilingual teachers and school administrators.

The Superintendent of Public Instruction shall provide stipends to qualified individuals who pursue an educational program at a cooperating institution of higher education which is directed toward a teaching credential qualifying the holder to teach limited and non-English-speaking children.

NOTE: Authority cited for Chapter 12: Sections 52151 and 52152, Education Code.

HISTORY

1. New Chapter 12 (Sections 11600–11604) filed 2–28–75; effective thirtieth day thereafter (Register 75, No. 9).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Chapter 12 (Sections 11600–11604) to Chapter 10 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 11601. Definitions.

(a) “Cooperating institution of higher education” means any California State University or College, the University of California, or community college.

(b) “Qualified individual” means any person who is:

(1) Enrolled in a cooperating institution of higher education for a minimum of nine units per semester or eight quarter units per quarter for a minimum total of 18 semester units or 24 quarter units in the academic year, and is

(2) Employed as a teacher aide to provide direct bilingual instructional services in a public school for a minimum of 10 hours per week while participating in the Bilingual Teacher Corps program.

(c) “Necessary expenses” means transportation expenses generated by traveling from the college site to the public school and back again, and other tuition and book costs directly resulting from enrollment in the program leading to a credential qualifying the individual to teach limited and non-English-speaking children.

NOTE: Authority cited: Section 52151, Education Code. Reference: Sections 52150 and 52151, Education Code.

HISTORY

1. Amendment filed 5–21–75; effective thirtieth day thereafter (Register 75, No. 21).
2. Amendment filed 10–19–78 as an emergency; effective upon filing (Register 78, No. 42).
3. Certificate of Compliance filed 12–26–78 (Register 78, No. 52).

§ 11602. Funding.

The Superintendent of Public Instruction may allocate up to 10% of the funds appropriated for the Bilingual Teacher Corps program to cooperating institutions of higher education in order to conduct program planning, development, and administration.

§ 11603. Stipend.

A cooperative institution of higher education shall receive a stipend for payment to each participant in the approved program who maintains a minimum of 12 units per semester or quarter in the academic year. Such stipend shall be renewable each year. Participants who maintain less than 12 units per semester or quarter shall receive a pro-rata share of the maximum stipend.

The stipend shall supplement and not supplant any other financial aid.

NOTE: Authority cited: Section 52151, Education Code. Reference: Sections 52150 and 52151, Education Code.

HISTORY

1. Amendment filed 5–21–75; effective thirtieth day thereafter (Register 75, No. 21).

2. Amendment filed 10–19–78 as an emergency; effective upon filing (Register 78, No. 42).
3. Certificate of Compliance filed 12–26–78 (Register 78, No. 52).

§ 11604. Evaluation.

Each cooperating institution of higher education shall submit an annual evaluation report in the manner and form prescribed by the Superintendent of Public Instruction.

Subchapter 11. Regional Adult and Vocational Education Councils

Article 1. General Provisions

§ 11610. Selection of Members to a Council.

(a) Prime Sponsor Representation. A prime sponsor for the balance of State shall make the selection only in the event that the council region does not include a local prime sponsor. Where the council region includes two or more local prime sponsors, that local sponsor serving the largest number of CETA participants in that region shall make the selection.

(b) Private School Representation. The county superintendent of schools who called the initial organizational meeting shall notify all private postsecondary educational institutions in the council region and request that they cooperatively select one representative.

In the event that a private postsecondary school does not exist within the region of a council, the council shall identify, as far as reasonably possible, all such private schools located within a reasonable distance outside the council boundary that draw upon the population of the council region for students. The council shall then invite those identified private schools to select a representative for membership on the council.

(c) District Representation. In the event that the region of a council encompasses only one secondary school or community college district, the particular district shall select all four members. Where the region encompasses two or more secondary school or community college districts, nominations for selection of members by election shall be made in the following manner: each secondary school and community college district shall make nominations as follows: each of two districts may nominate no more than three persons; each of three districts may nominate no more than two persons; each of four districts may nominate no more than two persons; and each of five or more districts may nominate one person only.

NOTE: Authority cited: Section 8023, Education Code. Reference: Section 8024, Education Code.

HISTORY

1. New Chapter 13 (Sections 11610–11631) filed 3–31–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Chapter 13 (Sections 11610–11631) to Chapter 11 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).
4. Repealer of former Section 11610, and renumbering and amendment of former Section 11616 to Section 11610 filed 7–12–83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11611. Criteria for Review of Courses.

(a) In reviewing plans to offer courses and programs, a council must necessarily examine the content of the courses and programs. However, the recommendations submitted to the Superintendent and Chancellor shall be addressed to the elimination of unnecessary duplication of courses and programs.

(b) The council shall not make recommendations relative to course content, course title, method of instruction or qualifications of instructors. Each council shall include, in its review, appropriate labor market supply and demand, population and other data to make its determinations.

(c) For purposes of Education Code Section 8030, a local educational agency includes a regional occupational center and a regional educational program.

NOTE: Authority cited: Section 8029, Education Code. Reference: Sections 8029 and 8030, Education Code.

HISTORY

1. Repealer of former Section 11611, and renumbering and amendment of former Section 11621 to Section 11611 filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 39.

Article 2. Formation of Regional Council Boundaries

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer of Article 2 (Section 11612) filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

Article 3. Criteria for Council Boundary Determination

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer of Article 3 (Section 11613) filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

Article 4. Organization of Councils

§ 11614. Initial Organizational Meeting.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11615. Membership Eligibility.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11616. Selection of Members to a Council.

NOTE: Authority cited: Section 8023, Education Code. Reference: Section 8024, Education Code.

HISTORY

1. Renumbering and amendment of Section 11616 to Section 11610 filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11617. Vacancies.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11618. Attendance at Meetings.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11619. Council Organization.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Amendment of subsection (i) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

Article 5. Council Functions

§ 11620. Review of Courses and Programs and Approval of Plans for Courses and Programs.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11621. Criteria for Review of Courses.

NOTE: Authority cited: Section 8029, Education Code. Reference: Sections 8029 and 8030, Education Code.

HISTORY

1. Amendment of subsection (c) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Renumbering and amendment of Section 11621 to Section 11611 filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11622. Procedures for Reviewing Educational Courses and Programs.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11623. Criteria for Determining Necessary Duplication.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11624. Delineation of Function Agreements.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11625. Short Term Plans for Vocational and Adult Continuing Education.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11626. Routing of Material to the Council.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

§ 11627. Report of Council Activities.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 8020-8121, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 11-9-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 11628. Fiscal Procedures.

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer filed 7-12-83; effective thirtieth day thereafter (Register 83, No. 29).

Article 6. Appeals from Decision of the Council

NOTE: Authority cited: Section 8023, Education Code. Reference: Sections 8020-8034, Education Code.

HISTORY

1. Repealer of Article 6 (Sections 11629–11631) filed 7–12–83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 12. Alternative Schools

NOTE: Authority cited: Sections 33031 and 58511, Education Code. Reference: Sections 58500–58512, Education Code.

HISTORY

1. New Chapter 14 (Sections 11650–11654) filed 8–20–76; effective thirtieth day thereafter (Register 76, No. 34).
2. Amendment of Section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Chapter 14 (Sections 11650–11654) to Chapter 12 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).
4. Repealer of Chapter 12 (Sections 11650–11654) filed 1–20–83; effective thirtieth day thereafter (Register 83, No. 4).

Subchapter 13. Independent Study

Article 1. General Provisions

§ 11700. Definitions.

(a) “Full-time equivalent certificated employees” means any combination of full-time certificated employees and part-time certificated employee assignments that aggregate to the amount of instructional time specified in the contract of a full-time certificated classroom teacher of the district or county office of education.

(b) “General supervision” means the supervising teacher’s

(1) continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil or adult education student progress for any pupil’s or adult education student’s independent study; and

(2) personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil’s or adult education student’s work products.

(c) “Independent study” means an alternative to classroom instruction consistent with the district’s course of study.

(d) “Independent study is an optional educational alternative in which no public may be required to participate” means

(1) with regard to school districts or county offices of education, that (A) they are not required to offer independent study, and

(B) school districts or county offices of education that do offer independent study are not obliged to permit a pupil or adult education student to engage in independent study if school officials given responsibility for the decision determine that independent study is not an appropriate alternative for the pupil or adult education student; and,

(2) with regard to pupils or adult education students,

(A) a pupil’s or an adult education student’s choice to commence, or to continue in, independent study must not be coerced, and

(B) in the case of a pupil who is referred or assigned to any school, class, or program pursuant to Education Code sections 48915 or 48917, and to the extent that independent study is not prohibited, instruction may be provided to the pupil through independent study only if the pupil has the continuing option of classroom instruction.

(e) “Method utilized to evaluate” means any specified procedure through which a certificated teacher personally assesses the extent to which achievement of the pupil or adult education student meets the objectives of an assignment.

(f) “Methods of study” means the pupil or adult education student activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement.

(g) “Missed assignment” means any specified independent study assignment that has not been turned in, or evidenced as completed, by a pupil or adult education student by the due date for the assignment.

(h) “Regular school program” means the classroom-based instructional program or its equivalent that a pupil or adult education student would have attended had the pupil or adult education student not elected independent study.

(i) “Specific resources” include all resources, including materials and services, reasonably necessary to the achievement of the objectives in the written agreement, and shall not be construed to exclude resources normally available to all pupils or adult education students on the same terms as the terms on which they are normally available to all pupils or adult education students.

(j) “Supervising teacher” means the certificated teacher employed by the school district or county office of education and assigned, as noted in the written agreement, the responsibility for coordinating, evaluating, and providing general supervision of a pupil’s or adult education student’s independent study pursuant to Education Code section 51747.5(a).

(k) “Type of program” means statutory program category for purposes of attendance accounting.

(l) “Work product” means that which results from a pupil’s or adult education student’s efforts and actions to complete or perform the assignments given and which is subsequently evaluated by a certificated teacher.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 48200, 48663, 48916.1, 49067, 51745, 51746, 51747 and 51747.5, Education Code.

HISTORY

1. New Chapter 15 (Sections 11700–11703) filed 10–22–76; effective thirtieth day thereafter (Register 76, No. 43).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Renumbering of Chapter 15 (Sections 11700–11703) to Chapter 13 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).
4. Amendment filed 4–13–83; effective thirtieth day thereafter (Register 83, No. 16).
5. Amendment filed 10–15–90; operative 10–15–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 47).
6. Amendment of subchapter 13 heading, section and NOTE filed 12–12–97; operative 1–11–98 (Register 97, No. 50).

§ 11700.1. Additional Definitions Applicable to Charter Schools.

(a) “Certificated employees,” in charter schools, means employees meeting the requirements of subdivision (l) of Education Code Section 47605.

(b) “Classroom instruction,” with reference to a charter school, means classroom instruction provided either by the charter school or by another public school that the pupil is eligible to attend.

(c) “School district” or “district,” for the purposes of this subchapter and of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code, means a school district or a charter school, unless the context clearly indicates otherwise.

NOTE: Authority cited: Sections 33031 and 47612.5(b), Education Code. Reference: Sections 47605(l), 47612.5(b) and 51745–51749.3, Education Code.

HISTORY

1. New section filed 12–23–99 as an emergency; operative 1–3–2000 pursuant to Government Code section 11343.4(c) (Register 99, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–23–99 order transmitted to OAL 3–28–2000 and filed 5–2–2000 (Register 2000, No. 18).

§ 11701. District Responsibilities.

In setting policy pursuant to subdivisions (a) and (b) of Education Code section 51747, the local governing board shall consider, in a public hearing, the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils or adult education students. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their age peers as to increase, rather than decrease, the risk of their dropping out of school.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Section 51747(a) and (b), Education Code.

HISTORY

1. Repealer filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).
2. New section filed 10-15-90; operative 10-15-90 pursuant to Government Code section 11346(d) (Register 90, No. 47).
3. Amendment of section and NOTE filed 12-12-97; operative 1-11-98 (Register 97, No. 50).

§ 11701.5. Equitable Provision of Resources and Services.

Consistent with the statutory authorization to offer independent study as an alternative instructional strategy to meet the educational needs of pupils or adult education students,

(a) the independent study option is to be substantially equivalent in quality and in quantity to classroom instruction, thereby ensuring that a pupil or adult education student who engages in independent study on a full-time basis, or on a part-time basis in conjunction with part- or full-time classroom study, will be enabled to complete the district or county office of education adopted course of study within the customary time frame for completion of that course of study;

(b) pupils or adult education students who choose to engage in independent study are to have the same access to existing services and resources as the other pupils or adult education students of the school in which the independent study pupil or adult education student is enrolled; and

(c) pupils or adult education students who choose to engage in independent study are to have equality of rights and privileges with the pupils or adult education students of the district or county office of education who choose to continue in the regular school program.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 35293, 37202, 46100, 51745, 51746 and 51747.3, Education Code.

HISTORY

1. New section filed 12-12-97; operative 1-11-98 (Register 97, No. 50).

Article 2. Standards for Independent Study

§ 11702. Requirements for Agreements.

(a) Each signature required for an independent study agreement shall be dated. An agreement is not in effect until it is complete as to all terms, signed and dated.

(b) The curriculum and methods of study specified in an independent study agreement shall be consistent with the district or county office of education policies and procedures for curriculum and instruction as adopted by the governing board.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 51013, 51050, 51745, 51746 and 51747, Education Code.

HISTORY

1. Amendment filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).
2. Amendment filed 10-15-90; operative 10-15-90 pursuant to Government Code section 11346.2(d) (Register 90, No. 47).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 12-12-97; operative 1-11-98 (Register 97, No. 50).

§ 11703. Records.

(a) Maintaining records to meet audit requirements is the responsibility of the local district or county superintendent's office. These records may be on site(s).

(b) Records shall include but not be limited to:

- (1) A copy of adopted governing board policy and procedures.
- (2) A separate listing of the pupils and adult education students, by grade level, program and school, who have engaged in independent study, identifying units of the curriculum undertaken and units of the curriculum completed by each of those pupils in kindergarten and grades 1 to 8, inclusive, and identifying course credits attempted by and awarded to each of those pupils in grades 9 to 12 inclusive and each of those students in adult education, as specified in their written agreements.

(3) A file of all agreements, including representative samples of each pupil's or adult education student's work products bearing signed or ini-

tialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work, or that he or she has personally reviewed the evaluations made by another certificated teacher.

(4) A daily or hourly attendance credit register, as appropriate to the program in which the pupils or adult education students are enrolled, separate from classroom attendance records, and maintained on a current basis as time values of pupil or adult education student work products are personally judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons.

NOTE: Authority cited: Section 51749.3, Education Code. Reference: Sections 51747, 51747.5 and 51748, Education Code.

HISTORY

1. Amendment filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).
2. Amendment filed 4-13-83; effective thirtieth day thereafter (Register 83, No. 16).
3. Amendment of subsections (b)(2) and (b)(3) filed 10-15-90; operative 10-15-90 pursuant to Government Code section 11346.2(d) (Register 90, No. 47).
4. Amendment of subsections (b)-(b)(4) and amendment of NOTE filed 12-12-97; operative 1-11-98 (Register 97, No. 50).

Article 3. Provisions Unique to Charter Schools

§ 11704. Pupil — Teacher Ratio.

In a charter school, for the purposes of Education Code section 51745.6, the ratio of average daily attendance for independent study pupils to full-time equivalent (FTE) certificated employees responsible for independent study shall not exceed a pupil-teacher ratio of 25:1 or the ratio of pupils to full-time equivalent certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, as reported at the second principal apportionment in the prior year, in the county or counties in which the charter school operates. Units of average daily attendance for independent study that are ineligible for apportionment as provided in subdivision (b) of Education Code section 51745.6 shall also be ineligible for funding pursuant to Chapter 6 (commencing with section 47630) of Part 26.8 of the Education Code. For purposes of this section, a "full-time certificated employee" means an employee who is required to work a minimum six-hour day and 175 days per fiscal year. Part-time positions shall generate a partial FTE on a proportional basis.

NOTE: Authority cited: Sections 33031 and 47612.5(b), Education Code. Reference: Sections 47612.5(b) and 51745.6, Education Code.

HISTORY

1. New article 3 (section 11704) and section filed 12-23-99 as an emergency; operative 1-3-2000 pursuant to Government Code section 11343.4(c) (Register 99, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-2-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-23-99 order transmitted to OAL 3-28-2000 and filed 5-2-2000 (Register 2000, No. 18).
3. Amendment filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).
4. Change without regulatory effect amending section filed 4-4-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 14).

§ 11705. High School Graduation Requirements.

For the purposes of subdivision (e) of Education Code section 51745, a charter school that includes any of grades 9 to 12, inclusive, shall be deemed to be an alternative school of every high school district and unified school district within which it operates.

NOTE: Authority cited: Sections 33031 and 47612.5(b), Reference: Sections 47612.5(b) and 51745, Education Code.

HISTORY

1. New section filed 2-10-2000 as an emergency; operative 2-10-2000 (Register 2000, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-9-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-23-99 order transmitted to OAL 3-28-2000 and filed 5-2-2000 (Register 2000, No. 18).

Subchapter 14. School Resource Centers

Article 1. School Resource Centers

§ 11710. Definitions.

(a) "Staff Development" is ongoing education and training activities which are planned, carried out, and evaluated for the purpose of improving the job related skills of principals, teachers, instructional aides, classroom volunteers, and other student support personnel who regularly serve students in kindergarten through grade twelve. Staff development includes training and education in the following areas:

- (1) Program planning, development, implementation, and evaluation;
- (2) Disciplines or bodies of knowledge;
- (3) Instructional skills and abilities; and
- (4) Human development and counseling skills.

The purpose of staff development is to improve the effectiveness of instruction in order to promote student achievement in a wide variety of basic, academic, personal, social, and career skills and competencies.

(b) A "School Resource Center" is a staff development delivery system which is organized to provide the following services to schools, school districts, and county schools offices:

(1) Assist school personnel to conduct an accurate assessment of school staff development needs and to help them to become fully aware of these needs;

(2) Assist with the design of staff development programs which will address assessed needs of schools;

(3) Identify and match available staff development resources with the assessed needs of schools;

(4) Train key school personnel to deliver training to school groups;

(5) Provide training to individual schools; and

(6) Provide training to individuals or groups of individuals from various schools to meet assessed needs related to their school objectives.

(c) "Training" consists of staff development activities which assure that trainees develop or extend job-related skills and areas of knowledge and understanding, and that guided practice or follow-up activities will be used to strongly encourage the successful application of the newly acquired skills and knowledge in the job setting.

(d) "Grantee Agency" is an agreed upon school district or county office of education acting on its own, or on behalf of a consortium which selected it as its representative. The agency shall be responsible for receiving and disbursing funds under this Act.

(e) "Center Personnel" as used in Section 44680.5(b) is limited to the center project director or manager and other full-time professional employees of the center.

NOTE: Authority cited: Section 44680.9, Education Code.

HISTORY

1. New Chapter 16 (Sections 11710–11715) filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
2. Renumbering of Chapter 16 (Sections 11710–11715) to Chapter 14 filed 11–7–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 11711. Interagency Agreements for Centers.

A school resource center application may be submitted to the Superintendent of Public Instruction by a county office of education, a school district, or one of these on behalf of a consortium which shall include school districts and county offices of education and may include institutions of higher education. Prior to submitting this application, the participating agencies and institutions shall duly enter into legal interagency contracts to support and participate in such a consortium with a grantee agency.

§ 11712. Assurance Requirement for Resource Center Application.

Each application to establish a resource center(s) shall include assurances that the following standards have been met, or will be met:

(a) The staff development program proposed in the application is designed to provide the appropriate services listed in Education Code Section 11710(b).

(b) The proposed evaluation design adequately provides for ongoing program review and modification of the staff development program, including intended outcomes as outlined in the application.

§ 11713. Selection Process and Criteria.

(a) For the 1978–79 fiscal year, one center will be funded in each of six regions as established by the Superintendent of Public Instruction and each center will receive a grant of at least \$80,000.

(b) Those applications to establish centers which meet the requirement of Section 11712 shall be ranked and approved by the State Board of Education on the basis of the following criteria, listed in descending order of importance:

(1) The extent to which the staff development program proposed in an application is designed to achieve objectives for the center as specified in Education Code Section 44680.2.

(2) The degree of commitment of a district, or the parties to a consortium, as evidenced by: policies; allocation of staff; allocation of fiscal and material resources including the provision of release time pursuant to Education Code Section 44670.5(d); the integration of existing resources and services; and prospective utilization of the services of the center.

(3) The extent and degree of collaboration among the parties in a consortium.

(4) The potential impact a center will have regionally.

(5) The extent to which the staff development program proposed in an application is designed to provide all of the appropriate services listed in Section 11710(b).

§ 11714. Governance of Center Projects.

(a) A school district or county office of education which serves as a grantee agency for a school resource center consortium shall adopt, publish and disseminate legally constituted policies and procedures developed by the consortium on:

(1) Personnel recruitment, selection, placement and retention;

(2) Staff development programs; and

(3) Accounting practices consistent with the current edition of the California School Accounting Manual.

(b) Each school district or county office of education which agrees to participate in the development of an interagency consortium for the purpose of applying for funds to operate a school resource center shall concur in writing that the personnel and fiscal policies and procedures of the grantee agency shall prevail in resource center operations.

§ 11715. Relationship of Regulations Covering School Resource Centers with Those Covering the Teacher Centers Program Established Pursuant to Public Law 94–482 of 1976.

(a) Nothing in these regulations is to be construed as prohibiting simultaneous application and use of funds under both Education Code Sections 44680 through 44680.91 and the appropriate sections covering the Teacher Centers Program established pursuant to Public Law 94–482 of 1976.

(b) The State Board of Education will approve applications for funding of Teacher Centers Programs using criteria which are based upon regulations promulgated under Public Law 94–482 of 1976 together with those listed in Education Code Section 11713.

Subchapter 15. Comprehensive Health Education

§ 11800. Criteria for Approval of Plans.

Evaluation and approval of district plans for comprehensive health education submitted by school districts that wish to receive reimbursement for inservice teacher training provided in accordance with Section

51920 of the Education Code will be based on standards and criteria established by the State Board of Education and made available to all school districts.

NOTE: Authority cited: Section 51911, Education Code. Reference: Section 51911, Education Code.

HISTORY

1. New Chapter 17 (Sections 11800 and 11801) filed 11-16-78; effective thirtieth day thereafter (Register 78, No. 46).
2. Renumbering of Chapter 17 (Sections 11800-11801) to Chapter 15 filed 11-7-79; effective thirtieth day thereafter (Register 79, No. 45).

§ 11801. Application.

Each district submitting a plan for comprehensive health education shall apply on such forms and at such times as the Department of Education shall determine.

NOTE: Authority cited: Section 51911, Education Code. Reference: Section 51911, Education Code.

Subchapter 16. Pregnant Minor Program

§ 11820. Definitions.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. New Chapter 16 (Sections 11820-11834, not consecutive) filed 8-26-82; effective thirtieth day thereafter (Register 82, No. 35).
2. Amendment of subsection (b) filed 6-21-84; effective thirtieth day thereafter (Register 84, No. 25).
3. Change without regulatory effect repealing subchapter 16 (sections 11820-11834) and repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11822. Statement of Assurance.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11823. General Program Provisions.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11827. Placement Procedures.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11828. Parent Notification.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11829. Eligibility.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11831. Staff Development.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11832. Program Advisory Council.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11833. Safeguarding of Funds.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 11834. Reporting Requirements.

NOTE: Authority cited: Section 2551.3, Education Code. Reference: Section 2551.3, Education Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-8-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

Subchapter 17. Grant Program for Restructuring in Public Education

Article 1. Planning Grant Application

§ 11840. Procedures for Filing a Planning Grant Application.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 58901, 58914 and 58916, Education Code.

HISTORY

1. New section filed 3-28-91 as an emergency; operative 3-28-91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7-26-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 46).

§ 11841. Criteria.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 58901, 58914 and 58916, Education Code.

HISTORY

1. New section filed 3-28-91 as an emergency; operative 3-28-91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7-26-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 46).

§ 11842. Scoring the Applications.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 58901, 58914 and 58916, Education Code.

HISTORY

1. New section filed 3-28-91 as an emergency; operative 3-28-91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7-26-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 46).

Article 2. Demonstration Grant Applications

§ 11843. Scoring Applications.

(a) The score for each demonstration grant application is based on the proposal as a whole rather than the sum of its individual school part, district or consortium part, and collaborative compact part (description of the school's efforts to consult with key stakeholders such as the district, governing board, collective bargaining units, businesses, public institutions of higher education, public and private nonprofit social services and child development agencies, and other organizations as appropriate).

(b) The application, submitted on behalf of any school, shall describe the vision guiding their restructuring effort and the actions the school and

district or consortium propose to take to integrate the primary elements of restructuring. For purposes of this article, "vision" means what the applicant wants students to be able to know and do, and how the school needs to be structured and organized to accomplish this. The vision provides an overarching picture of what could be rather than what is, and it is the source from which the goals and action plan follow.

(c) The application shall describe, with a rationale:

(1) What will be done to restructure public education in the school and district;

(2) Why such action is important; and

(3) How the action plan will be carried out.

(d) Each application will be reviewed and scored as a whole entity on a four part scale, with four being the highest score. Specific criteria for scoring will be based on the degree to which the proposal as a whole demonstrates:

(1) an understanding of the goal and focal point of restructuring;

(A) a focus on learning and students;

(B) quality of analysis of the primary issues and problems the school faces regarding student performance; and

(C) understanding of the depth and quality of change needed to transform learning, teaching, curriculum, and assessment;

(2) an understanding of the critical elements of restructuring and how they work together to transform learning;

(A) an integrated and comprehensive vision which includes all of the restructuring elements in a manner which shows promise for materially improving the learning of all students and for engaging all students in a rigorous, meaningful learning experience;

(B) the required elements of a restructuring plan are:

1. an active, thinking-centered rather than skill-centered curriculum, involving multiple and diverse instructional strategies, and performance-based student assessment for ALL students, especially those at risk;

2. outcome-based accountability systems that include agreement on multiple and diverse, performance-based outcomes which drive the design of school structures and policies at every level of the system (district, school, department, classroom, individual, students, teachers);

3. professional collaboration, development and decision-making focused on learning and teaching, and involving all members of the school community;

4. organizational patterns and processes that encourage expanded involvement of parents, and greater inclusion and collaboration among the various stakeholders in the decision-making process (school staff members, parents, the business community, institutions of higher education, social service agencies, and others as appropriate to the particular school setting);

5. technology as a tool to enhance learning and instruction and to strengthen management of the school; and

6. ongoing, objective evaluation of:

a. individual student progress in learning and in social and emotional growth;

b. the effectiveness of actions taken to meet long-range goals; and

c. continuous feedback which uses evaluation results to reconsider and redesign the learning environment for greater success.

7. A restructuring demonstration proposal that includes grades 11 or 12 must include new and expanded opportunities for 11th and 12th grade students to attend classes in colleges and universities, enroll in specialized schools and programs, and to participate in internships or other field work with business, industry, schools, and community organizations.

8. A restructuring demonstration proposal that includes preschool programs and/or school-age parenting and infant development programs that have received separate, targeted funding for such programs must include an explanation of how these programs fit into the overall restructuring effort.

(3) a clear and convincing picture of the specific actions needed to move toward the vision:

(A) completeness and validity of the action plan;

(B) clear and convincing links between the vision and the particular strategies, structures, actions and activities to be undertaken;

(C) a detailed and specific action plan, particularly related to the timeline, budget, evaluation systems, professional development, and governance structure, depth and quality of the strategies, actions and activities; and

(4) an understanding of how to manage change, provide for growth and development, and sustain systems for continuously reevaluating and improving the learning and teaching environment evidenced by:

(A) a rational, sound approach to managing the change process;

(B) systems for continuous evaluation of progress toward long-range goals and of feedback to guide change efforts;

(C) potential for successfully carrying out fundamental change across several interrelated dimensions;

(D) actions, roles, responsibilities for stakeholders which are clearly described; and

(E) specific descriptions of the kinds and sources of support, leadership, staff development, and the conditions needed to maximize the chances of successful change.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 58901, 58903, 58904, 58905, 58906, 58907, 58908, 58909, 58910, 58915, 58916 and 58923, Education Code.

HISTORY

1. New section filed 5-20-92 as an emergency; operative 5-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9-17-92 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-20-92 order including amendment of section transmitted to OAL 9-17-92 and filed 10-27-92 (Register 92, No. 44).

§ 11844. Interviews.

(a) Final selection will include an interview with panelists composed of the advisory committee representatives identified pursuant to Education Code section 58916 and other individuals representing a variety of roles (school and district and county level administrators, teachers, business persons and university faculty) who are knowledgeable about restructuring. The highest scoring schools in the categories described in Education Code section 58906(a) will be invited to participate in an oral interview to determine the level of communitywide support and school-site leadership for the proposed restructuring proposal.

(1) Communitywide support includes the specific resources, support, conditions or leadership to be provided by those whose participation is crucial to the restructuring effort, such as teachers, the school district, the governing board, certificated and classified bargaining units, parents, the non-parent public, business, community organizations, institutions of higher education, and others as appropriate.

(2) Schoolsite leadership includes evidence of collaborative decision-making and governance structures focused on learning and teaching; opportunities for expanded participation by parents in the change process; processes for building the capacity and knowledge of all members of the school site to enable them to develop and successfully carry out their restructuring vision and action plan; and a commitment of all the school's resources to the restructuring effort.

(b) The score of each oral interview is based on the interview as a whole rather than on the quality of answers to individual questions. The score will be based on a four part scale, with four being the highest score. Specific criteria for scoring will be based on:

(1) communitywide support as described in subsection 11844(a)(1);

(2) schoolsite leadership as described in subsection 11844(a)(2); and

(3)(A) understanding of the goal and focal point of restructuring, (B) understanding of the critical elements of restructuring, (C) understanding of the specific actions needed to move toward the restructuring vision, and (D) understanding of how to manage change, as described in subsection 11843(d).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 58904 and 58906, Education Code.

HISTORY

1. New section filed 5–20–92 as an emergency; operative 5–20–92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 9–17–92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–20–92 order including amendment of subsections (a)(1) and (b)(3) transmitted to OAL 9–17–92 and filed 10–27–92 (Register 92, No. 44).

Subchapter 18. Grant Program for Healthy Start

Article 1. Grants

§ 11900. Definitions.

Throughout this subchapter, unless otherwise indicated by the context:

(a) “Applicant” is a California local educational agency or consortium of local educational agencies involved in local agency collaboration that submits an application on behalf of qualifying schools for Healthy Start funds.

(b) “Application” is that document submitted in response to the Request for Applications.

(c) “Application narrative” is that portion of the application wherein the applicant provides a written description of local conditions and the proposed Healthy Start initiative.

(d) “Client-centered outcomes” means specific improvements in the academic performance, health status and psycho-social functioning of children and families.

(e) “Comprehensive, integrated, school-linked services” means the establishment of a comprehensive, integrated system of services which includes school, health and human service providers, and community groups and provides assistance to children and families across multiple service areas.

(f) “Elements” are the requisite components that each application for funds must contain.

(g) “Local agency collaboration,” as stated in Education Code section 8806, ensures on-going consultation and collaboration with local agencies and involves, at a minimum, parents or guardians and teachers of eligible pupils and representatives of each member agency or private partner who will provide, or is anticipated to provide, services pursuant to the Healthy Start Support Services for Children Act (Education Code section 8800 et seq.).

(h) “Request for Applications” is the California Department of Education announcement for competitive award of grants for the Healthy Start Program.

NOTE: Authority cited: Section 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. New subchapter 18 (sections 11900–11910, not consecutive) filed 6–23–92 as an emergency; operative 6–23–92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL 10–21–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11–24–92 as an emergency; operative 11–24–92 (Register 92, No. 48). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
3. New section, including amendments to subsections (a) and (b), refiled 3–26–93 as an emergency; operative 3–26–93 (Register 93, No. 13). A Certificate of Compliance must be transmitted to OAL 7–26–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–26–93 order including amendment of section heading and text transmitted to OAL 7–23–93 and filed 9–1–93 (Register 93, No. 36).
5. Amendment filed 10–19–2005; operative 11–18–2005 (Register 2005, No. 42).

§ 11905. Operational Grants.

Operational grants applicants must be demonstrate:

(a) That the students and families they intend to serve have exceptional health, social, education, and/or economic needs, as described in Education Code section 8801;

(b) That the applicant understands these needs and available resources;

(c) That the goals for students and families in the applicable community are clearly stated;

(d) That specific client-centered outcomes are identified that the applicant seeks to achieve;

(e) That the proposed programs will emphasize the provision of services which are prevention-oriented;

(f) Evidence that the applicant represents a local agency collaboration which will be functioning on behalf of children, youth, and their families, and that those participating in the local agency collaboration support the application;

(g) Evidence that the participants in the local agency collaboration offer a comprehensive plan for the activities that participating agencies will undertake; and

(h) That the applicant has maximized the use of existing financial and programmatic resources to implement fundamental changes to improve access to services and achieve the desired goals and client-centered outcomes.

(i) That the applicant shall comply with all state and federal laws pertaining to confidentiality of student records and privacy, including, but not limited to FERPA (Family Educational Right to Privacy Act, 20 U.S.C. 1232g) and PPRA (Protection of Pupil Rights Act, 20 U.S.C. 1232h), as well as state and federal laws pertaining to the confidentiality of medical records, including but not limited to, HIPAA (Health Insurance Portability and Accountability Act, 42 U.S.C. 1320d, et seq.).

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8801, 8804 and 8806, Education Code.

HISTORY

1. New section filed 6–23–92 as an emergency; operative 6–23–92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL 10–21–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11–24–92 as an emergency; operative 11–24–92 (Register 92, No. 48). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3–26–93 as an emergency; operative 3–26–93 (Register 93, No. 13). A Certificate of Compliance must be transmitted to OAL 7–26–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–26–93 order including amendment of section heading, text and NOTE transmitted to OAL 7–23–93 and filed 9–1–93 (Register 93, No. 36).
5. New subsection (i) filed 10–19–2005; operative 11–18–2005 (Register 2005, No. 42).

§ 11910. Planning Grants.

Planning grant applicants must outline a plan which identifies the steps required for the applicant to achieve all of the elements of Section 11905.

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. New section filed 6–23–92 as an emergency; operative 6–23–92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL 10–21–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11–24–92 as an emergency; operative 11–24–92 (Register 92, No. 48). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3–26–93 as an emergency; operative 3–26–93 (Register 93, No. 13). A Certificate of Compliance must be transmitted to OAL 7–26–93 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3–26–93 order including renumbering of former section 11910 to section 11925 and adoption of new section transmitted to OAL 7–23–93 and filed 9–1–93 (Register 93, No. 36).

§ 11915. Review of Applications for Operational and Planning Grants.

(a) Only those applications which are complete in their entirety (collaborative approval, Healthy Start Support Services budget, and application narrative) will be considered for funding.

(b) Submission deadline dates must be strictly adhered to and shall be those specified in the Request for Applications.

(c) The application narrative may not exceed 25 pages for operational grant applications; 12 pages for planning grant applications.

(d) An application narrative that meets the following format specifications will be considered in its entirety:

- (1) The pages are single-sided, 8-1/2 inches by 11 inches.
- (2) The top, bottom, left, and right margins are 1 inch minimum.
- (3) The font is 12 point and does not exceed 6 lines per inch.

(e) Attachments to the narrative may include documents that support the narrative, not to exceed 10 pages. Attachments that are simply a continuation of the narrative will not be considered. Attachments may include but are not limited to student profile data (e.g., test scores, attendance, mobility, discipline, ethnicity, immunization status at the time of enrollment, etc.) and letters of support from parents. Memoranda of understanding that document the specific commitments from the local agency collaboration members may be attached to the application narrative and are excluded from the 10-page attachment limitation.

(f) Each complete and timely application will be reviewed and assessed according to the criteria in subdivisions (g) and (h) below.

(g) Operational grant applications will be evaluated for the degree to which the application:

(1) Demonstrates an understanding of Healthy Start (Education Code section 8800 et seq.) objectives by addressing each of the elements cited in section 11905 in a clear and logical manner using appropriate supportive data;

(2) Demonstrates an understanding of student and/or family needs by describing underlying conditions and causes based on appropriate data sources including but not limited to students, families, and local public and private agencies that provide services;

(3) Assesses the strengths and limitations of existing community services and utilities, redirects, restructures, or integrates local agency and community resources.

(4) Actively addresses local needs including any unique cultural needs;

(5) Delineates fiscal and governance responsibilities of collaborative members;

(6) Describes achievable and client-centered outcomes;

(7) Demonstrates that there will be a specific mechanism in place to refer students and families in need of assistance and to ensure that the supports are available for the individual students and families to access the needed services;

(8) Establishes a procedure for ongoing feedback regarding client-centered outcomes and local agency collaboration outcomes to clients and local agency collaboration participants;

(9) Establishes comprehensive, integrated school-linked services; and

(10) Establishes or tests innovative or new forms of service delivery and collaboration, including but not limited to, amount and sources of required funding, redirection or restructuring of staffing and funding, priorities for whom to serve, and agencies responsible for providing services.

(h) Planning grant applications will be evaluated for the degree to which the application demonstrates:

(1) An understanding of Healthy Start (Education Code section 8800 et seq.) objectives by addressing each of the elements cited in section 11910 in a clear and logical manner using appropriate supportive data;

(2) A plan for building a collaborative comprehensive, integrated school-linked services delivery system which will include ongoing participation of parents, teachers, community groups, and service providers;

(3) Specific planning activities for soliciting input from ethnic and linguistic groups in the community;

(4) A plan for reaching the specified goals based on a preliminary understanding of current student, facility, and community conditions, needed improvements, and steps to accomplish client-centered outcomes; and

(5) Evidence of efforts to include broad community support and a range of available resources.

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. Certificate of Compliance as to 3-26-93 order including adoption of new section transmitted to OAL 7-23-93 and filed 9-1-93 (Register 93, No. 36).
2. Amendment of subsections (d)(3), (f), (g)(1) and (g)(7) filed 10-19-2005; operative 11-18-2005 (Register 2005, No. 42).

§ 11920. Awarding of Grants.

(a) All applications will be ranked in accordance with their assessed score.

(b) Grant awards will be awarded on the basis of an applicant's rank and any other factors established by Education Code section 8804.

(c) If an LEA has been funded for an operational grant on behalf of an identified school, the LEA is not eligible for a subsequent operational grant for the same school.

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. Certificate of Compliance as to 3-26-93 order including adoption of new section transmitted to OAL 7-23-93 and filed 9-1-93 (Register 93, No. 36).
2. New subsection (c) filed 10-19-2005; operative 11-18-2005 (Register 2005, No. 42).

§ 11925. Use of Funds.

(a) An applicant must submit a budget and a budget narrative supporting the amount of funding requested and documenting the required match.

(b) In general, purposes for which Healthy Start funds may be used include, but are not limited to:

(1) Staff salaries.

(2) Contracting for professional consultants or service providers to design programs or provide technical assistance.

(3) Training and cross-training.

(c) Operational grants: No more than 50 percent of operational grant monies may be used to purchase direct services. Funds may be used for, but are not limited to, the following:

(1) Contracting with public and private agencies for delivery of services.

(2) Purchasing equipment dedicated to Healthy Start use, including computer equipment, necessary for program management and data collection and evaluation, not to exceed 10 percent of the total annual operating budget.

(3) Facilities rental, lease, or purchase costs, not to exceed 15 percent of the total annual operating budget, for space that is dedicated to Healthy Start use.

(4) Start-up funds may be used for, but are not limited to, the following costs:

(A) Facility renovations, not to exceed \$50,000.

(B) Equipment purchase.

(C) Hiring staff.

(D) Contracting for professional consultants or service providers to design programs, or provide technical assistance.

(d) Planning grants: Planning grant monies may be used to purchase equipment required to implement the planning process and dedicated to Healthy Start use, not to exceed 10 percent of the total planning grant. Planning grant monies may not be used for capital expenditures or facility rental or lease.

(e) Healthy Start funds may not be used for expenses related to out-of-state travel.

(f) State and/or federal categorical funds may not be used toward meeting the in-kind match requirement specified in Education Code section 8804(c).

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. Certificate of Compliance as to 3-26-93 order including renumbering and amendment of former section 11910 to section 11925 transmitted to OAL 7-23-93 and filed 9-1-93 (Register 93, No. 36).

§ 11930. Grant Award Appeal Process.

(a) Applicants who wish to appeal the grant award decision regarding the application must submit a letter of appeal to the State Superintendent of Public Instruction or designee.

(b) The letter of appeal must:

- (1) Be received by the date specified in the Request for Applications;
- (2) Describe the factors which caused the applicant to conclude that the readers did not follow the prescribed rating standards and explain why the score is in conflict with the rating standards described in section 11915 or the grant award process described in section 11920; and
- (3) Identify specific information in the application that the applicant believes was overlooked or misinterpreted.

(c) The application will be reevaluated by California Department of Education staff or designees. The final decision on any recommendations to revise the original score of an application and/or fund the application will be made in writing by the State Superintendent of Public Instruction, or designee. In the event that the state budget has not been approved for the next fiscal year, notification may be postponed until after state budget approval.

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804 and 8806, Education Code.

HISTORY

1. Certificate of Compliance as to 3–26–93 order including adoption of new section transmitted to OAL 7–23–93 and filed 9–1–93 (Register 93, No. 36).
2. Amendment filed 10–19–2005; operative 11–18–2005 (Register 2005, No. 42).

§ 11935. Waivers to Program Regulations.

NOTE: Authority cited: Sections 8804(b) and (i), Education Code. Reference: Sections 8804, Education Code.

HISTORY

1. Certificate of Compliance as to 3–26–93 order including adoption of new section transmitted to OAL 7–23–93 and filed 9–1–93 (Register 93, No. 36).
2. Repealer filed 10–19–2005; operative 11–18–2005 (Register 2005, No. 42).

Subchapter 19. Charter Schools

Article 1. Charter School Regular Average Daily Attendance

§ 11960. Regular Average Daily Attendance for Charter Schools.

(a) As used in Education Code section 47612, “attendance” means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. “Regular average daily attendance” shall be computed by dividing a charter school’s total number of pupil–days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school’s total number of pupil–days of attendance, no pupil may generate more than one day of attendance in a calendar day.

(b) The State Superintendent of Public Instruction shall proportionately reduce the amount of funding that would otherwise have been apportioned to a charter school on the basis of average daily attendance for a fiscal year, if school was actually taught in the charter school on fewer than 175 calendar days during that fiscal year.

(c)(1) Beginning in 2004–05, a pupil who is over the age of 19 years may generate attendance for apportionment purposes in a charter school only if both of the following conditions are met:

(A) The pupil was enrolled in a public school in pursuit of a high school diploma (or, if a student in special education, an individualized education program) while 19 years of age and, without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress towards award of a high school diploma (or, if a student in special education, satisfactory progress in keeping with an individualized education program) consistent with the definition of satisfactory progress set forth in subdivision (b) of Section 11965.

(B) The pupil is not over the age of 22 years.

(2) This subdivision shall not apply to a charter school program specified in Education Code section 47612.1. A charter school program as specified in Education Code section 47612.1 may be either:

(A) the whole of a charter school, if the school has an exclusive partnership agreement with one or more of the programs specified in Education Code section 47612.1 and serves no other pupils; or

(B) an instructional program operated by a charter school that is exclusively dedicated to pupils who are also participating in one of the programs specified in Education Code section 47612.1, provided that arrangement is set forth in an exclusive partnership agreement between the charter school and one or more of the programs specified in Education Code section 47612.1.

(d) No individual who is ineligible to generate attendance for apportionment purposes in a charter school pursuant to subdivision (c) may be claimed as regular attendance for apportionment purposes by a local education agency that is authorized by law to grant charters. This subdivision shall not apply to claims other than claims for regular attendance for apportionment purposes.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 41420, 46301 and 47612, Education Code.

HISTORY

1. New subchapter 19 and section filed 9–7–93 as an emergency; operative 9–7–93 (Register 93, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–94 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 19 and section refiled 12–23–93 as an emergency; operative 1–6–94 (Register 93, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–6–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–23–94 order transmitted with amendments to OAL 5–4–94 and filed 6–15–94 (Register 94, No. 24).
4. Amendment of section heading and subsection (a), repealer of subsection (c) and amendment of NOTE filed 7–1–98 as an emergency; operative 7–1–98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 10–29–98 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 7–1–98 order transmitted to OAL 10–13–98 and filed 11–13–98 (Register 98, No. 46).
6. New subsections (c)(1)–(d) filed 2–10–2004; operative 3–11–2004 (Register 2004, No. 7).

Article 1.2. Closure Procedures

§ 11962. Definition of Procedures for School Closure.

As used in Education Code sections 47605(b)(5)(P) and 47605.6(b)(5)(Q), “procedures” means, at a minimum, each of the following:

(a) Designation of a responsible entity to conduct closure–related activities.

(b) Notification of the closure of the charter school to parents (guardians) of pupils, the authorizing entity, the county office of education (unless the county board of education is the authorization entity), the special education local plan area in which the school participates, the retirement systems in which the school’s employees participate (e.g., Public Employees’ Retirement System, State Teachers’ Retirement System, and federal social security), and the California Department of Education, providing at least the following:

- (1) The effective date of the closure;
- (2) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure;
- (3) The pupils’ school districts of residence; and
- (4) The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.

(c) Provision of a list of pupils in each grade level and the classes they have completed, together with information on the pupils’ district of residence, to the responsible entity designated in subdivision (a).

(d) Transfer and maintenance of all pupil records, all state assessment results, and any special education records to the custody of the responsible entity designated in subdivision (a), except for records and/or assess-

ment results that the charter may require to be transferred to a different entity.

(e) Transfer and maintenance of personnel records in accordance with applicable law.

(f) Completion of an independent final audit within six months after the closure of the school that may function as the annual audit, and that includes at least the following:

(1) An accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value.

(2) An accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.

(3) An assessment of the disposition of any restricted funds received by or due to the charter school.

(g) Disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed, including but not limited to, the following:

(1) The return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required Final Expenditure Reports and Final Performance Reports.

(2) The return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

(h) Completion and filing of any annual reports required pursuant to Education Code section 47604.33.

(i) Identification of funding for the activities identified in subdivisions (a) through (h).

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47607, Education Code.

HISTORY

1. New article 1.2 (sections 11962–11962.1) and section filed 4–9–2007; operative 5–9–2007 (Register 2007, No. 15).

§ 11962.1. Definitions Related to the Duties of a Chartering Authority.

(a) “Notification” as used in Education Code section 47604.32(e) means the transmission to the California Department of Education of at least the following:

(1) A description of the circumstances of the closure;

(2) The effective date of the closure; and

(3) The location of pupil records and personnel records.

(b) “Personnel records” as used in subdivision (a) means any records the charter school has relevant to its employees, including, but not limited to, records related to performance and grievance as specified in Labor Code section 1198.5.

(c) “Pupil records” as used in subdivision (a) has the same meaning as per Education Code section 49061(b).

(d) “Timely” as used in Education Code section 47604.32(e) means receipt of the evidence transmitted pursuant to subdivision (a) within ten calendar days of the official action taken by the chartering authority.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47604.32, Education Code.

HISTORY

1. New section filed 4–9–2007; operative 5–9–2007 (Register 2007, No. 15).

Article 1.5. Classroom– and Nonclassroom–Based Instruction in Charter Schools

§ 11963. Definition of Classroom–Based Instruction.

(a) In accordance with the definition of classroom–based instruction specified in Education Code section 47612.5(e)(1), and for purposes of identifying and reporting that portion of a charter school’s average daily

attendance that is generated through nonclassroom–based instruction pursuant to Education Code sections 47634.2(c) and 47612.5(e)(2), classroom–based instruction in a charter school occurs only when all four of the following conditions are met.

(1) The charter school’s pupils are engaged in educational activities required of those pupils, and the pupils are under the immediate supervision and control of an employee of the charter school who is authorized to provide instruction to the pupils within the meaning of Education Code section 47605(l).

(2) At least 80 percent of the instructional time offered at the charter school is at the schoolsite.

(3) The charter school’s schoolsite is a facility that is used principally for classroom instruction.

(4) The charter school requires its pupils to be in attendance at the schoolsite at least 80 percent of the minimum instructional time required pursuant to Education Code section 47612.5(a)(1).

(b) The requirement to be “at the schoolsite” is satisfied if either of the following conditions is met.

(1) The facility in which the pupils receive instruction is:

(A) Owned, rented, or leased by the charter school principally for classroom instruction;

(B) Provided to the charter school by a school district pursuant to Education Code section 47614 principally for classroom instruction; or

(C) Provided to the charter school free-of-charge principally for classroom instruction pursuant to a written agreement.

When not being used by the charter school for classroom instruction, the facility may be rented, leased, or allowed to be used for other purposes (e.g., for evening adult classes not offered by the charter school, local theater productions, or community meetings) and still be deemed to be principally for classroom instruction.

(2) The charter school facility meets the criteria in paragraph (1) of subdivision (b) and the pupils are on a field trip during which the pupils remain under the immediate supervision and control of the employee of the charter school and are carrying out an educational activity required of the pupils.

(c) The requirement to be “at the schoolsite” is not satisfied if the pupils are in a personal residence (i.e., a dwelling), even if space in the residence is set aside and dedicated to instructional purposes and/or the charter school rents or leases space in the residence for the provision of instruction. As used in this subdivision, a personal residence shall not include a facility that is licensed by a state or local government agency to operate as a facility in which pupils not related to the facility’s owners are provided custodial care and supervision (e.g., a licensed children’s institution or a boarding school).

(d) The definitions in this section are solely for the purpose of determining if a charter school must submit a determination of funding request pursuant to Education Code section 47634.2.

NOTE: Authority cited: Sections 33031, 47612.5 and 47634.2, Education Code. Reference: Sections 47605, 47612.5 and 47634.2, Education Code.

HISTORY

1. New article 1.5 (sections 11963–11963.6) and section filed 10–28–2003; operative 10–28–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44). For prior history of article 1.5, sections 11963–11963.4, see Register 2002, No. 42.

§ 11963.1. Nonclassroom–Based Instruction in Charter Schools.

This article does not change the requirement that nonclassroom–based instruction in charter schools comply with the provisions of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code.

NOTE: Authority cited: Sections 33031 and 47612.5, Education Code. Reference: Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28; and Section 47612.5, Education Code.

HISTORY

1. New section filed 10–28–2003; operative 10–28–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).

§ 11963.2. Average Daily Attendance for Nonclassroom–Based Instruction in Charter Schools.

(a) A charter school may receive funding for nonclassroom–based instruction only if a determination of funding is made pursuant to Education Code section 47634.2. A determination of funding is a specific percentage approved by the State Board of Education for each affected charter school by which the charter school’s reported nonclassroom–based average daily attendance must be adjusted by the Superintendent of Public Instruction prior to the apportioning of funds based upon that average daily attendance. A determination of funding shall only be approved by the State Board for a charter school if the charter school has submitted a request.

(b) A determination of funding request approved by the State Board of Education shall be 70 percent, unless a greater or lesser percentage is determined appropriate by the State Board of Education in accordance with section 11963.4. In no case shall an approved determination of funding exceed 100 percent.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

HISTORY

1. New section filed 10–28–2003; operative 10–28–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).
2. Amendment of section and NOTE filed 12–6–2005; operative 12–6–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

§ 11963.3. Determination of Funding Request Forms and Calculations.

(a) For purposes of submitting a determination of funding request, the California Department of Education shall issue a form or set of forms to collect the information specified in this subdivision. Unless otherwise indicated, charter schools submitting a determination of funding request shall complete the form or forms in accordance with the definitions used in the 2005 edition of the California School Accounting Manual (which can be obtained from the California Department of Education web site at: <http://www.cde.ca.gov/fg/ac/sa>). The form or forms shall be developed by the California Department of Education in consultation with the Advisory Commission on Charter Schools. The form or forms shall include all of the following and, to the extent the form or forms include more than the following, the form or forms shall require the approval of the State Board of Education and comply with applicable provisions of the Administrative Procedure Act.

(1) The name, charter number, authorizing entity, address, contact name and title, telephone number, fax number, and email address, if any, for the charter school.

(2) The percentage requested by the school as its determination of funding.

(3) The number of fiscal years for which the determination of funding is requested, which shall not exceed five years.

(4) The date the charter was initially granted and the date the charter or charter renewal will expire.

(5) For charter schools that operated in the prior fiscal year, all of the following:

(A) The school’s total resources, including all federal revenue, with federal Public Charter School Grant Program start–up, implementation, and dissemination grants separately identified; all state revenue; all local revenue with in–lieu property taxes separately identified; other financing sources; and the ending balance from the prior fiscal year.

(B) The school’s total expenditures for instruction and related services, by object of expenditure, which shall include all of the following:

1. Activities dealing with the interaction between teaching staff and students, without regard to the instructional location or medium.
2. Services that provide administrative, technical, and logistical support to facilitate and enhance instruction.
3. Services in direct support of students.
4. School–sponsored extra–curricular or co–curricular activities designed to provide motivation and enjoyment and improvement of skills.

5. Instructional materials, supplies, and equipment.

(C) The school’s total expenditures for schoolsite and administrative site operations and facilities, by object of expenditure, which shall include all of the following:

1. Activities concerned with securing and keeping open and working the physical plants, grounds, and equipment necessary for the operation of the school.

2. Facility rents, leases, and utilities.

3. Facilities acquisition and construction.

(D) The school’s total expenditures for administration and all other activities, by object of expenditure, which shall include all of the following:

1. Activities concerned with establishing and administering policy for operating the entire charter school, such as the governing board, director, and administrative staff.

2. Other general administration activities, such as payroll and accounting services, auditing and legal services, property and liability insurance, personnel, charter–wide telephone service, and data processing services.

3. Supervisorial oversight fees charged by the chartering authority.

4. Other expenditures not reported elsewhere, such as those for community services and enterprise activities and cumulative administrative overhead from related party transactions.

(E) Other outgo and other uses, including debt service payments and transfers.

(F) The excess (or deficiency) of revenues over expenditures calculated by subtracting the total of subparagraphs (B), (C), (D), and (E), from the total resources reported pursuant to subparagraph (A), and a list of the amount of reserves for: facilities acquisition or construction, economic uncertainties, the amount required by the charter–authorizing entity, or other reserves. Reserves in excess of the greater of fifty–thousand dollars or five percent of total expenditures may be allowed for economic uncertainties or long–term expenditures such as capital projects if the excess reserves are satisfactorily explained pursuant to section 11963.4(b).

(6) For charter schools that did not operate in the prior fiscal year, the revenue and expenditure information required in paragraph (5) shall be provided using reasonable estimates of current–year annualized revenues and expenditures.

(b) In addition to the form or forms prescribed pursuant to subdivision (a), a complete determination of funding request shall also include the following information. Only a determination of funding request that is complete may be acted upon by the State Board of Education.

(1) A certification signed by the charter school’s director, principal, or governing board chairperson of the following:

(A) That the information provided is true and correct to the best of the ability and knowledge of the individual authorized to do so by the charter school’s governing board.

(B) That the charter school’s nonclassroom–based instruction is conducted for and substantially dedicated to the instructional benefit of the school’s students.

(C) That the governing board of the charter school has adopted and implements conflict of interest policies.

(D) That all of the charter school’s transactions, contracts, and agreements are in the best interest of the school and reflect a reasonable market rate for all goods, services, and considerations rendered for or supplied to the school.

(2) The charter school’s pupil–teacher ratio as calculated pursuant to title 5, section 11704 of the California Code of Regulations.

(3) A listing of entities that received in the previous fiscal year (or will receive in the current fiscal year) \$50,000 or more or 10 percent or more of the charter school’s total expenditures identified pursuant to subparagraphs (B), (C), (D), and (E) of paragraph (5) of subdivision (a), the amount received by each entity; whether each of the contract payments is based on specific services rendered or upon an amount per unit of average daily attendance or some other percentage; and an identification of which entities, if any, have contract payments based on a per unit average daily attendance amount or some other percentage.

(4) An identification of the members comprising the charter school's governing board (i.e., parent, teacher, etc.) and a description of how those members were selected; whether the governing board has adopted and implemented conflict of interest policies and procedures; and whether any of the governing board members are affiliated in any way with any of the entities reported pursuant to paragraph (3) and if so, how.

(5) An explanation of all transfers reported pursuant to subparagraph (E) of paragraph (5) of subdivision (a).

(6) A list and the amount of each of the other reserves reported pursuant to subparagraph (F) of paragraph (5) of subdivision (a).

(7) To the extent that a charter school desires to have facility costs considered as an instructional cost, the total annual facility-related and operational cost, total facility square footage occupied by the charter school, total classroom-based average daily attendance (if applicable) as reported at the prior-year second principal apportionment, and the total student hours attended by nonclassroom-based pupils at the school site shall be provided.

(8) The number of full-time equivalent employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing and who work in the charter school in a position required to provide direct instruction or direct instructional support to students. For purposes of these regulations, "direct instructional support" includes, but is not limited to, activities that are directly related to student instruction that are performed by qualified certificated persons such as curriculum coordinators, individualized education plan coordinators, librarians, counselors, psychologists, and nurses.

(c) The California Department of Education shall perform the following using the resource and expenditure data provided pursuant to subdivision (a).

(1) A calculation showing the charter school's total expenditures for salaries and benefits for all employees who possess a valid teaching certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold issued by the Commission on Teacher Credentialing (and who work in the charter school in a position required to provide direct instruction or direct instructional support to students) as a percentage of the school's total public revenues. For the purposes of this subdivision:

(A) "Employees" shall include special education teachers who possess a valid teaching certificate, permit, or other document equivalent to that which special education teachers in non-charter public schools would be required to hold issued by the Commission on Teacher Credentialing, and who provide direct instruction or direct instructional support to pupils of the charter school pursuant to a contract with a public or private entity.

(B) "Employees" shall include individuals who possess a valid certificate, permit, or other document equivalent to that which the individuals would be required to possess in a non-charter public school, issued by the Commission on Teacher Credentialing, and who are employed by a local education agency (LEA), provided all of the following conditions are met: the LEA is the employer of all the charter school's staff; the governing board of the LEA is the governing authority for the charter school (i.e., the charter school is not a corporate entity separate from the LEA); and the LEA's employees are assigned exclusively to work at the charter school providing direct instruction or direct instructional support to students or, to the extent that the LEA's employees are assigned to work at the charter school on a part-time basis, the charter school pays for the services rendered by the employee providing direct instruction or direct instructional support to students on a documented, fee-for-service basis and not, for example, on the basis of a fixed annual amount, fixed percentage of average daily attendance revenue, or other basis that is not related to documented services actually rendered to the charter school. Under no circumstances shall certificated employees of an LEA be considered employees of a charter school for purposes of this subpara-

graph unless the charter school pays for the services rendered by the LEA's employees on a documented, fee-for-service basis.

(C) For purposes of this section, "employee" also means qualified persons that provide direct instruction or direct instructional support, that are hired directly by the charter school through an employment services contract based on a documented, fee-for-service basis.

(D) The school's total public revenue is based on the amounts reported pursuant to subparagraph (A) of paragraph (5) of subdivision (a) and equals the sum of: all federal revenue, less any Public Charter School Grant Program start-up, implementation, and dissemination grant funds; state revenue; and local revenue from in-lieu property taxes.

(2) A calculation showing the charter school's total expenditures on instruction and related services as a percentage of the school's total revenues. For the purposes of this subdivision, the school's total revenues do not include the ending balance from the prior fiscal year.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5, 47634.2 and 51745.6, Education Code.

HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).

2. Amendment of section and NOTE filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

§ 11963.4. Evaluation of Determination of Funding Requests Regarding Nonclassroom-Based Instruction.

(a) When a complete determination of funding request is received from a charter school, it shall be reviewed by the California Department of Education and presented to the Advisory Commission on Charter Schools, along with credible information pertaining to the request obtained from any other source. The Advisory Commission shall develop a recommendation pursuant to this section to the State Board of Education regarding the request, and that recommendation shall be presented to the State Board of Education by the California Department of Education. The following criteria shall guide the process of reviewing and developing a recommendation on the request. The California Department of Education shall report any difference of opinion between the California Department of Education and the Advisory Commission as to the recommendation presented to the State Board of Education.

(1) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals at least 35 percent but less than 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 60 percent but less than 70 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 70 percent, unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(2) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 70 percent but less than 80 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 85 percent, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying a percentage that is greater than 70 percent and, if the recommended percentage is lower than the requested percentage, the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(3) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals or exceeds 80 percent, and the ratio of average daily attendance

for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of 25:1 or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 100 percent (i.e. full funding), unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(4) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 is less than 35 percent, or the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 is less than 60 percent, then the charter school's nonclassroom-based instruction is not substantially dedicated to the instructional benefit of the students, and the Advisory Commission on Charter Schools shall recommend that the State Board of Education deny the request, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying the denial and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school. Denial of a determination of funding request by the State Board of Education shall result in no funding being apportioned for average daily attendance identified by the charter school as being generated through nonclassroom-based instruction pursuant to Education Code section 47634.2(c).

(5) Any request for a funding determination received prior to the effective date of these regulations will be reviewed pursuant to the criteria in effect at the time of submittal.

(b) The Advisory Commission on Charter Schools and/or the California Department of Education may ask the charter school to provide additional information in order to make possible a more detailed review or to develop a reasonable basis for a recommendation other than those prescribed in subdivision (a). With the consent of the Superintendent of Public Instruction, the request for additional information shall be considered a reasonable inquiry to which the charter school must respond pursuant to Education Code section 47604.3.

(c) Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

(d) Prior to a recommendation by the Advisory Commission on Charter Schools (that a determination of funding request be denied or approved at a percentage lower than that requested) being forwarded to the State Board of Education, the affected charter school shall be given thirty (30) calendar days in which to amend its determination of funding request and/or to provide additional information in support of the request. Based upon consideration of the amended request or any additional information that may be provided, the Advisory Commission may modify its recommendation to the State Board.

(e) A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional

services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5 and 47634.2, Education Code.

HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).
2. Amendment of section and NOTE filed 12-6-2005; operative 12-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

§ 11963.5. Determination of Funding Requests for Nonclassroom-Based Virtual or On-Line Charter Schools.

A virtual or on-line charter school is one in which at least 80 percent of teaching and student interaction occurs via the Internet.

(a) A virtual or on-line nonclassroom-based charter school may receive approval of a funding determination with no maximum pupil-teacher ratio if the charter school has and maintains an 8 or above Academic Performance Index (API) rank in either its statewide or similar schools ranking and has no less than a 6 in the other of these two rankings.

(b) In order to be funded pursuant to (a) above, a virtual or on-line charter school, must demonstrate that:

- (1) The school has met its overall and subgroup API growth targets.
- (2) Instructional expenditures are at least 85 percent of the overall school budget. A substantial portion of these expenditures (at least 25 percent of the charter school's general purpose entitlement and categorical block grant as defined in Education Code section 47632), are spent on technology that directly benefits students and teachers and results in improved student achievement.

(3) Computer-based instruction and assessment is provided to each student and includes the use of an on-line instructional management program, which at a minimum includes standards-based guided lessons, lesson plans, initial testing of students, periodic assessment of student achievement, and the use of other measurements of student progress over a period of time.

(4) Teachers are provided with technology tools and print media, which at a minimum must include: standards-aligned instructional materials, computer, printer, monitor, Internet service, telephone, staff development that provides for the monitoring of student progress, and a means of electronic communication for frequent student contact.

(5) All students are provided an individualized learning plan that is based on initial testing of the students and that is monitored either remotely or in person, by the teacher to evaluate student progress.

(6) All students are provided access to a computer, Internet service, printer, monitor, and standards-aligned materials based on State Board adopted academic content standards for each grade level and for each subject studied.

(7) All students eligible for special education supports and services receive those supports and services in accordance with their individualized education program.

(8) Charter school admission practices will not favor high performing students or recruit a student population that is of a higher socioeconomic group or lower racial or ethnic representation than the general population of the county or counties served. Admission practices not reflective of the county or counties served shall be cause for denial by the State Board of Education under this section.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47632, 47634.2, 51747.3, 52052 and 60640-60643, Education Code.

HISTORY

1. New section filed 10-28-2003; operative 10-28-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).

2. Renumbering of former section 11963.5 to section 11963.6 and new section 11963.5 filed 12–6–2005; operative 12–6–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

§ 11963.6. Submission and Action on Determination of Funding Requests Regarding Nonclassroom–Based Instruction.

(a) An approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years. Within 90 days after the end of its first fiscal year of operation, a charter school shall submit unaudited actual expense reports and a funding determination form based on the school's actual second-year budget. If the Advisory Commission on Charter Schools determines that the actual expenditures of the charter school or the second year funding determination form do not support the funding determination for the second year, the Advisory Commission on Charter Schools shall recommend that the State Board of Education revise the funding determination.

(b) For the 2005–06 fiscal year only, a determination of funding request approved by the State Board of Education for any nonclassroom–based charter school that is not in its first year of operation shall be for the 2005–06 fiscal year and additionally a minimum of one year but a maximum of four years prospectively (for a total funding determination of not more than five years).

(c) Any determination of funding request approved by the State Board of Education for an existing nonclassroom–based charter school from the 2006–07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007–08 fiscal year, nonclassroom–based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year prior to the year the funding determination will be effective, when a new request is required under these regulations.

(d) A determination of funding shall be subject to review each time a material change is made in the school's charter with respect to nonclassroom–based instruction, and may be subject to review each time the school's charter is renewed, and/or in accordance with any conditions the State Board of Education may impose at the time of the determination of funding request approval. A material change in the school's charter with respect to nonclassroom–based instruction is any significant change that affects the level of resources devoted to nonclassroom–based instruction, the courses to be offered through nonclassroom–based instruction, and/or the delivery of educational services to pupils receiving nonclassroom–based instruction. The charter school shall notify the California Department of Education no later than thirty (30) days after the material change is made.

(e) A charter school may submit a request for funding determination up to one year prior to the fiscal year in which the request will initially be effective. The State Board may grant the request for up to five years following the effective date of the request.

(f) Not more than 120 days following the receipt of a complete determination of funding request, the California Department of Education shall present the request and the recommendation of the Advisory Commission on Charter Schools to the State Board of Education in accordance with subdivision (a) of section 11963.4.

(g) If, during the effective period of a determination of funding, a charter school wishes to seek a higher or lower determination of funding, it shall do so by the filing of a new determination of funding request. During the effective period of a charter school's determination of funding, no more than one additional determination of funding request (which would replace the determination of funding then in effect) may be submitted by the charter school in the same fiscal year.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47604.3, 47612.5, 47634.2 and 51745.6, Education Code.

HISTORY

1. New section filed 10–28–2003; operative 10–28–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 44).
2. Renumbering of former section 11963.6 to section 11963.7 and renumbering of former section 11963.5 to section 11963.6, including amendment of section and

NOTE, filed 12–6–2005; operative 12–6–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

§ 11963.7. Termination of a Determination of Funding Regarding Nonclassroom–Based Instruction.

Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the funding authorized.

The State Board of Education may terminate a determination of funding if updated or additional information requested by the California Department of Education and/or the Advisory Commission on Charter Schools is not made available by a charter school within thirty (30) calendar days or if credible information from any source supports termination. If the latter is the case, the charter schools shall be given thirty (30) calendar days prior to the termination of funding to provide additional information to support the school's determination of funding.

NOTE: Authority cited: Sections 33031 and 47634.2, Education Code. Reference: Sections 47612.5 and 47634.2, Education Code.

HISTORY

1. Renumbering of former section 11963.6 to new section 11963.7, including amendment of section and NOTE, filed 12–6–2005; operative 12–6–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 49).

Article 2. General Provisions

§ 11965. Definitions.

(a) "Private school" as that term is used in Education Code section 47602(b) means a school that meets the requirements set forth in Education Code sections 48222 and 48223.

(b) For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non–charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full–time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering agency is not a school district having at least one non–charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.

For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short–term objectives specified in his or her individualized education program made pursuant to U.S. Code, Title 20, Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

NOTE: Authority cited: Sections 33031, 47602(b) and 47612(b), Education Code. Reference: Sections 47602(b) and 47612(b), Education Code; and Section 1414(d), Title 20, U.S. Code.

HISTORY

1. New article 2 (sections 11965–11968) and section filed 2–8–99 as an emergency; operative 2–8–99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–8–99 or emergency language will be repealed by operation of law on the following day.
2. Repealer of article 2 (sections 11965–11968) and section by operation of Government Code section 11346.1(g) (Register 99, No. 31).
3. New article 2 (sections 11965–11968) and section filed 7–28–99; operative 7–28–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 31).
4. New subsection (a) designator and new subsection (b) and amendment of NOTE filed 11–18–99 as an emergency; operative 11–18–99 (Register 99, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–17–2000 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11-18-99 order, including amendment of subsection (b) and NOTE, transmitted to OAL 2-2-2000 and filed 2-22-2000 (Register 2000, No. 8).

§ 11966. Certification.

On each occasion that a charter school reports attendance to the California Department of Education for purposes of the calculation of state funding for the charter school, an official of the charter school who is responsible for reporting attendance shall specifically certify that all of the

attendance then reported is for pupils whose attendance is eligible for public funding pursuant to Education Code section 47602(b). The Superintendent of Public Instruction shall not apportion state funds to any charter school that fails to make the certification required by this section.

NOTE: Authority cited: Sections 33031 and 47602(b), Education Code. Reference: Section 47602(b), Education Code.

HISTORY

1. New section filed 2-8-99 as an emergency; operative 2-8-99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-8-99 or emergency language will be repealed by operation of law on the following day.

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2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 31).
3. New section filed 7-28-99; operative 7-28-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 31).

§ 11967. Appeals on Charter Petitions That Have Been Denied.

(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education not later than 180 calendar days after the denial. A charter school petition that has been previously denied by a county board of education must be received by the State Board of Education not later than 180 calendar days after the denial. Any petition received by the county board of education or State Board of Education more than 180 days after denial shall not be acted upon by the county board of education or State Board of Education.

(b) When filing a petition with the county board of education or the State Board of Education for the establishment of a charter school, petitioner(s) shall provide the following:

(1) A complete copy of the charter petition as denied, including the signatures required by Education Code section 47605.

(2) Evidence of the governing board's action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b).

(3) A signed certification stating that petitioner(s) will comply with all applicable law.

(4) A description of any changes to the petition necessary to reflect the county board of education or the State Board of Education as the chartering entity as applicable.

(c) The county board of education or State Board of Education shall deny a petition for the establishment of a charter school only if that board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)–(5).

(d) Not later than 60 days after receiving a complete petition package, and following review of the petition at a duly noticed public meeting, a county board of education shall grant or deny the charter petition. This time period may be extended by an additional 30 days if the county board of education and the petitioner(s) agree to the extension.

(e) Not later than 90 days after receiving a complete petition package, the State Board of Education shall schedule, at its next regular board meeting, an action item to grant or deny the charter petition. This date may be extended by an additional 30 days if the State Board of Education and the petitioner(s) agree to the extension.

(f) In considering charter petitions that have been previously denied, the county board of education or State Board of Education are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(b).

NOTE: Authority cited: Sections 33031 and 47605(j)(5), Education Code. Reference: Section 47605(j), Education Code.

HISTORY

1. New section filed 2-8-99 as an emergency; operative 2-8-99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-8-99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 31).
3. New section filed 7-28-99; operative 7-28-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 31).
4. Amendment of section and NOTE filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

§ 11967.5. Review and Approval of Charter School Petitions by the State Board of Education.

The State Board of Education shall utilize the criteria set forth in Section 11967.5.1. in reviewing the elements of a charter petition submitted for its approval in accordance with the provisions of Education Code sec-

tion 47605(b) and (j). The purpose of the criteria is to convey to charter petitioners the State Board of Education's understanding of the meaning of the elements specified in Education Code section 47605(b), or otherwise to convey essential information about the elements. The criteria are intended to require no charter provisions in excess of those that the State Board of Education believes necessary to determine whether each element specified in Education Code section 47605(b) has been satisfactorily addressed. Where the criteria call for judgments to be made, the judgments will be made in such a manner as to be reasonable, rational, and fair to the petitioners and other parties potentially affected by the chartering of the school by the State Board of Education.

HISTORY

1. New section filed 3-1-2002; operative 3-31-2002 (Register 2002, No. 9).

§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions by the State Board of Education.

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the State Board of Education's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the State Board of Education.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is either of the following:

(1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the State Board of Education determines not to be likely to be of educational benefit to the pupils who attend.

(c) For purposes of Education Code section 47605(b)(2), the State Board of Education shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program."

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the State Board of Education regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the State Board of Education's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.

2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that "does not contain the number of signatures required by subdivision (a)" of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of its submission to a school district pursuant to Education Code section 47605(a). The State Board of Education shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that "does not contain an affirmation of each of the conditions described in subdivision (d)" of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the State Board of Education shall take the following factors into consideration in determining whether a charter petition does not contain a "reasonably comprehensive" description of each of the specified elements.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person in the 21st century, belief of how learning best occurs, and a goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.

(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, technology-based education).

(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the State Board of Education pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.

(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.

(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.

(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.

(2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:

(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.

(B) Include the school's Academic Performance Index growth target, if applicable.

(3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.

(B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.

(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.

(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:

1. The charter school will become and remain a viable enterprise.

2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).

3. The educational program will be successful.

(5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:

(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.

(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.

(C) Specify that the all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:

(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.

(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.

(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.

(7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.

(8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.

(9) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:

(A) Specify who is responsible for contracting and overseeing the independent audit.

(B) Specify that the auditor will have experience in education finance.

(C) Outline the process of providing audit reports to the State Board of Education, California Department of Education, or other agency as the State Board of Education may direct, and specifying the time line in which audit exceptions will typically be addressed.

(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.

(10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:

(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.

(B) Identify the procedures by which pupils can be suspended or expelled.

(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.

(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).

(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):

1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.

2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.

(13) The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

(A) Any rights upon leaving the employment of a local education agency to work in the charter school that the local education agency may specify.

(B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency may specify.

(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the State Board of Education determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

(A) Include any specific provisions relating to dispute resolution that the State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.

(B) Describe how the costs of the dispute resolution process, if needed, would be funded.

(C) Recognize that, because it is not a local education agency, the State Board of Education may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.

(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code), as required by Education Code section 47605(b)(5)(O), recognizes that the State Board of Education is not an exclusive public school employer and that, therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(g) A "reasonably comprehensive" description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

(1) Is substantive and is not, for example, a listing of topics with little elaboration.

(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.

(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

(4) Describes, as applicable among the different elements, how the charter school will:

(A) Improve pupil learning.

(B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

(C) Provide parents, guardians, and pupils with expanded educational opportunities.

(D) Hold itself accountable for measurable, performance-based pupil outcomes.

(E) Provide vigorous competition with other public school options available to parents, guardians, and students.

NOTE: Authority cited: Sections 33031 and 47605(j)(5), Education Code. Reference: Section 47605, Education Code.

HISTORY

1. New section filed 3-1-2002; operative 3-31-2002 (Register 2002, No. 9).

§ 11967.6. Submission of Statewide Benefit Charter School Petitions to the State Board of Education.

(a) A petition to establish a statewide benefit charter school pursuant to Education Code section 47605.8 shall:

(1) Comply with all statutory requirements otherwise applicable to charter schools, except those relating to geographic and site limitations (See Education Code section 47605.8).

(2) If applicable, comply with all requirements of law relative to the provision of independent study.

(A) A charter that does not expressly provide for independent study shall not be interpreted as allowing independent study beyond that which is incidental and required to address the temporary needs of particular students.

(B) If the independent study (nonclassroom-based instruction) exceeds the percentage specified in Education Code section 47612.5, it

shall be funded only in keeping with a determination of funding approved pursuant to Education Code section 47634.2.

(3) Describe how an annual independent audit of the statewide benefit charter school will be conducted in keeping with applicable statute and regulation and indicate how the statewide benefit charter school's individual schools will be appropriately included in the audit process.

(4) Incorporate a plan that provides for initial commencement of instruction in at least two schools, which shall be in at least two different school districts or two different counties. The plan for instruction shall describe how the instructional services will provide a statewide benefit, as specified in section 11967.6(b) that cannot be provided by a charter school operating in only one school district, or only in one county. Existing charter schools previously approved by a charter authorizer may not be included in a petition to establish a statewide benefit charter school.

(5) Include an assurance that the instructional services for similar student populations described in the charter will be essentially similar at each school and, thus, that each pupil's educational experience will be reasonably the same with regard to instructional methods, instructional materials, staffing configuration, personnel requirements, course offerings, and class schedules.

(6) Describe how the statewide benefit charter school will participate as a member of a special education local plan area, and ensure a coordinated structure for the provision of necessary programs and services specific to students with Individual Education Programs (IEPs).

(7) Demonstrate success in operating charter schools previously approved in California as evidenced by improved pupil academic performance and annual financial audits with no audit findings or exceptions. Data that shall be considered in determining the likelihood of a charter operator to successfully operate a statewide benefit charter school include, but are not limited to, a statewide or similar schools ranking of 8 or higher on the Academic Performance Index, evidence of having met growth targets over time, and other alternative indicators of success as defined in the alternative accountability system pursuant to subdivision (h) of Education Code section 52052.

(8) Describe how local community input for each school included in the plan was solicited (or will be solicited). Satisfaction of this paragraph shall involve the holding of at least one publicly noticed meeting for each school, with a summary of the input received at the meeting(s) being provided.

(9) Contain sufficient signatures either of parents, guardians, or of teachers in keeping with Education Code section 47605(a)(1) for each school proposed in the first year.

(10) Include an assurance that the school district and county superintendents where each school will be located will be notified at least 120 days prior to commencement of instruction.

(11) Address all charter elements specified in Education Code section 47605 adapted appropriately for application at the statewide level.

(12) Contain or address any provisions or conditions specified by the State Board of Education at the time of charter approval.

(13) Contain a plan for operations of the statewide benefit charter school that describes the distinction between centralized and individual school level responsibilities and includes a staffing plan to implement the activities at the designated level. The plan shall address statewide benefit charter school operations including, but not limited to:

(A) Academic program,

(B) Facilities and school operations,

(C) Legal and programmatic compliance,

(D) Financial administration,

(E) Governance, and

(F) Decision-making authority.

(14) Provide a list of each school that will be operated by the statewide benefit charter school that includes:

(A) A timeline for the commencement of instruction at each school. Commencement of instruction must begin during the term of the charter.

(B) The general location of each school and the school district and county in which each school is to be located.

(C) A description of the potential facilities to be used at each school.

(D) The approximate number of pupils that can safely be accommodated by each school facility.

(b) "Instructional services of a statewide benefit", as referenced in Education Code section 47605.8(b), shall include, but not be limited to, the following factors:

(1) Unique factors and circumstances related to the statewide benefit charter school's educational program that can only be accomplished as a statewide benefit charter and not as a single district- or single county-authorized charter, including specific benefits to each of the following:

(A) The pupils who would attend the statewide benefit charter school.

(B) The communities (including the school districts and the counties) in which the individual schools would be located (e.g., in terms of pupil demographics and performance),

(C) The state, to the extent applicable, and

(D) The statewide benefit charter school itself (e.g., in fund raising, community partnerships, or relationships with institutions of higher education).

(2) Neither an administrative benefit to a charter operator, nor a desire by a charter operator to provide services in more than one district and county, shall be considered sufficient in and of itself to constitute a statewide benefit.

(c) A statewide benefit charter school, regardless of the number of individual schools, is treated as a school district for all purposes, including but not limited to, compliance monitoring, data reporting and collection, student performance data, oversight, and apportionments. For purposes of compliance monitoring and oversight, the State Board, in its review, will look at each individual school's independent progress in meeting federal and state growth targets.

(d) Following its submission, a petition to establish a statewide benefit charter school may be modified or new schools added that were not included in the original petition only with the approval of the State Board of Education.

(e) Each statewide benefit charter school shall provide an annual report to the State Board of Education reflecting student achievement data, performance benchmarks, and other pertinent data supporting stated charter goals.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605, 47605.8, 47612.5 and 47634.2, Education Code.

HISTORY

1. New section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

§ 11967.7. Evaluation of Facilities for Statewide Benefit Charter Schools.

(a) The statewide benefit charter school shall notify the California Department of Education at least 60 days prior to proposed commencement of instruction at each individual school, including submission of all documentation required in section 11967.6(a)(14). Within 30 days of the receipt of a complete and documented notice pursuant to this section, the California Department of Education shall evaluate the facilities for the proposed educational program for compliance with local building permits and codes and notify the statewide benefit charter school and any affected local education agency of its determination. The charter school or any affected local education agency may appeal the Department's determination within 10 calendar days of the date of the determination, and the matter will be placed on the agenda of the next regularly scheduled meeting of the State Board of Education. If no action is taken by the State Board of Education, the California Department of Education's determination shall stand. A school may not open in a facility without a positive determination.

(b) A school in its first year of operation may only commence instruction between July 1 and September 30 of the year in which it proposes to commence operation.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Section 47605.8, Education Code.

HISTORY

1. New section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

§ 11967.8. Funding for Statewide Benefit Charter Schools.

(a) A statewide benefit charter school approved pursuant to Education Code section 47605.8 shall be direct-funded pursuant to Chapter 6 of Part 26.8 of the Education Code (commencing with section 47630), with the following exceptions:

(1) A statewide benefit charter school's general-purpose entitlement pursuant to Education Code section 47633 shall be funded entirely from state aid.

(2) A statewide benefit charter school does not have a "sponsoring local education agency" as defined in Education Code section 47632.

(b) The warrant for a statewide benefit charter school shall be drawn in favor of the State Superintendent of Public Instruction and a county office of education as follows:

(1) The State Board of Education may designate a county office of education as the office responsible for establishing the appropriate funds or accounts in the county treasury for the statewide benefit charter school and for making the necessary arrangements for the statewide benefit charter school's participation in the State Teachers' Retirement System and/or the Public Employees' Retirement System. The county office may charge the statewide benefit charter school for the actual cost of services.

(2) In designating a county office of education, the State Board shall give preference to the county office of education of the county that the statewide benefit charter school identifies as the principal location of its business records.

(3) If the county office of education in the county that the statewide benefit charter school identifies as the principal location of its business records declines to accept the responsibility for the statewide benefit charter school, the State Board of Education may designate another county office of education by mutual agreement.

NOTE: Authority cited: Sections 33031 and 47605.8, Education Code. Reference: Sections 47605.8, 47632, 47633 and 47651, Education Code.

HISTORY

1. New section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

§ 11968. Maximum Number of Charters.

(a) If a charter school, including a statewide benefit or countrywide charter school, ceases to operate by voluntary surrender, revocation, or non-renewal of its charter, the charter school's number will lapse and will not be reassigned.

(b) On July 1, 1999, and on each succeeding July 1, the limit on the total number of charter schools authorized to operate in this state will be increased by 100.

(c) Whenever the statutory limit on the permissible number of charter schools authorized to operate in this state is reached, requests for new numbers will be placed on a list in the order received by the State Board of Education.

NOTE: Authority cited: Sections 33031 and 47602(b), Education Code. Reference: Section 47602, Education Code.

HISTORY

1. New section filed 2-8-99 as an emergency; operative 2-8-99 (Register 99, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-8-99 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 31).

3. New section filed 7-28-99; operative 7-28-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 31).

4. Amendment filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

§ 11969. Numbering of Charter School Petitions.

(a) In accordance with subdivision (a) of section 47602 of the Education Code, the California Department of Education, on behalf of the State Board of Education, shall establish and administer a numbering system to track the total number of charter schools authorized to operate in the state, based on the chronological order of the receipt of a complete charter petition and notification of charter approval by a local educational

agency or, in the case of a charter petition approved by the State Board of Education, the date and time of the State Board's approval.

(b) When the State Board of Education approves a charter petition or receives notice that a charter petition has been approved by a local education agency, the State Board shall assign a number to that charter petition in accordance with section 47602(a)(1) of the Education Code.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47602, Education Code.

HISTORY

1. New section filed 4-9-99 as an emergency; operative 4-9-99 (Register 99, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-9-99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4-9-99 order transmitted to OAL 6-30-99 and filed 8-11-99 (Register 99, No. 33).
3. Repealer and new section filed 6-22-2005; operative 6-22-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 25).

Article 3. Facilities for Charter Schools.

§ 11969.1. Purpose and Stipulation.

(a) This article governs provision of facilities by school districts to charter schools under Education Code section 47614.

(b) If a charter school and a school district mutually agree to an alternative to specific compliance with any of the provisions of this article, nothing in this article shall prohibit implementation of that alternative, including, for example, funding in lieu of facilities in an amount commensurate with local rental or lease costs for facilities reasonably equivalent to facilities of the district.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New article 3 (sections 11969.1-11969.9) and section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).
2. Amendment of section heading, section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.2. Definitions.

(a) Average Daily Classroom Attendance. As used in Education Code section 47614(b), "average daily classroom attendance," or "classroom ADA," is average daily attendance (ADA) for classroom-based apportionments as used in Education Code section 47612.5. "In-district classroom ADA" is classroom ADA attributable to in-district students. Nothing in this article shall prohibit a school district from allowing a charter school to include nonclassroom-based ADA in average daily classroom attendance, but only:

(1) to the extent of the instructional time that the students generating the nonclassroom-based ADA are actually in the classroom under the direct supervision and control of an employee of the charter school; and

(2) if the school district and charter school agree upon the time(s) that facilities devoted to students generating nonclassroom-based ADA will be used.

(b) Operating in the School District. As used in Education Code section 47614(b), a charter school is "operating in the school district" if the charter school meets the requirements of Education Code section 47614(b)(5) regardless of whether the school district is or is proposed to be the authorizing entity for the charter school and whether the charter school has a facility inside the school district's boundaries.

(c) In-district Students. As used in Education Code section 47614(b), a student attending a charter school is an "in-district student" of a school district if he or she is entitled to attend the schools of the school district and could attend a school district-operated school, except that a student eligible to attend the schools of the school district based on interdistrict attendance pursuant to Education Code section 46600-46611 or based on parental employment pursuant to Education Code section 48204(b) shall be considered a student of the school district where he or she resides.

(d) Contiguous. As used in Education Code section 47614(b), facilities are "contiguous" if they are contained on the school site or immediately adjacent to the school site. If the in-district average daily classroom

attendance of the charter school cannot be accommodated on any single school district school site, contiguous facilities also includes facilities located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety. In evaluating and accommodating a charter school's request for facilities pursuant to Education Code section 47614, the charter school's in-district students must be given the same consideration as students in the district-run schools, subject to the requirement that the facilities provided to the charter school must be contiguous. If a school district's preliminary proposal or final notification presented pursuant to subdivisions (f) or (h) of section 11969.9 does not accommodate a charter school at a single school site, the district's governing board must first make a finding that the charter school could not be accommodated at a single site and adopt a written statement of reasons explaining the finding.

(e) Furnished and Equipped. As used in Education Code section 47614(b), a facility is "furnished and equipped" if it includes reasonably equivalent furnishings necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction as found in the comparison group schools established under section 11969.3(a), and if it has equipment that is reasonably equivalent to that in the comparison group schools. "Equipment" means property that does not lose its identity when removed from its location and is not changed materially or consumed immediately (e.g., within one year) by use. Equipment has relatively permanent value, and its purchase increases the total value of a Local Educational Agency's (LEA's) physical properties. Examples include furniture, vehicles, machinery, motion picture film, videotape, furnishings that are not an integral part of the building or building system, and certain intangible assets, such as major software programs. Furnishings and equipment acquired for a school site with non-district resources are excluded when determining reasonable equivalence.

(f) General Fund. As used in Education Code section 47614(b)(1), "general fund" means the main operating fund of the LEA. It is used to account for all activities except those that are required to be accounted for in another fund. In keeping with the minimum number of funds principle, all of an LEA's activities are reported in the general fund unless there is a compelling reason to account for an activity in another fund. An LEA may have only one general fund.

(g) Unrestricted Revenues. As used in Education Code section 47614(b)(1), "unrestricted revenues" are those funds whose uses are not subject to specific constraints and that may be used for any purposes not prohibited by law. Restricted revenues are those funds received from external sources that are legally restricted or that are restricted by the donor to specific purposes. Programs funded by a combination of restricted and unrestricted sources will be accounted for and reported as restricted. Funds or activities that are not restricted or designated by the donor, but rather by the LEA's governing board, will be accounted for and reported as unrestricted.

(h) Facilities Costs. As used in Education Code section 47614(b)(1), "facilities costs" are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools. This includes plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 46600-46611, 47612.5, 47614 and 48204, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).
2. Amendment of section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.3. Conditions Reasonably Equivalent.

The following provisions shall be used to determine whether facilities provided to a charter school are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the stu-

dents would be accommodated if they were attending public schools of the school district providing facilities, as required by Education Code section 47614(b).

(a) Comparison Group.

(1) The standard for determining whether facilities are sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending public schools of the school district providing facilities shall be a comparison group of district-operated schools with similar grade levels. If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility within the meaning of subdivision (d) of section 11969.2 shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration.

(2) The comparison group shall be the school district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code section 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested.

(3) For school districts whose students do not attend high school based on attendance areas, the comparison group shall be three schools in the school district with similar grade levels that the largest number of students of the charter school would otherwise attend. For school districts with fewer than three schools with similar grade levels, the comparison group shall be all schools in the school district with similar grade levels.

(4) Although the district is not obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration, nothing in this article shall preclude the district from entering into an agreement with the charter school to modify an existing school site, with the costs of the modifications being paid exclusively by the charter school or by the school district, or paid jointly by the district and the charter school.

(b) Capacity.

(1) Facilities made available by a school district to a charter school shall be provided in the same ratio of teaching stations (classrooms) to ADA as those provided to students in the school district attending comparison group schools. School district ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. Charter school ADA shall be determined using in-district classroom ADA projected for the fiscal year and grade levels for which facilities are requested. The number of teaching stations (classrooms) shall be determined using the classroom inventory prepared pursuant to California Code of Regulations, title 2, section 1859.31, adjusted to exclude classrooms identified as interim housing. "Interim housing" means the rental or lease of classrooms used to house pupils temporarily displaced as a result of the modernization of classroom facilities, as defined in California Code of Regulations, title 2, section 1859.2, and classrooms used as emergency housing for schools vacated due to structural deficiencies or natural disasters.

(2) If the school district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation provided pursuant to paragraph (1) of subdivision (b) shall include a share of the specialized classroom space and/or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space allocated and/or the access to specialized classroom space provided shall be determined based on three factors:

(A) the grade levels of the charter school's in-district students;

(B) the charter school's total in-district classroom ADA; and

(C) the per-student amount of specialized classroom space in the comparison group schools.

(3) The school district shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom

ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative space, kitchen, multi-purpose room, and play area space. If necessary to implement this paragraph, the district shall negotiate in good faith with the charter school to establish time allocations and schedules so that educational programs of the charter school and school district are least disrupted.

(c) Condition.

(1) All of the factors listed below shall be used by the school district and charter school to determine whether the condition of facilities provided to a charter school is reasonably equivalent to the condition of comparison group schools. Condition is determined by assessing such factors as age (from latest modernization), quality of materials, and state of maintenance.

(A) School site size.

(B) The condition of interior and exterior surfaces.

(C) The condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes.

(D) The availability and condition of technology infrastructure.

(E) The condition of the facility as a safe learning environment including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use.

(F) The condition of the facility's furnishings and equipment.

(G) The condition of athletic fields and/or play area space.

(2) Notwithstanding paragraph (1) of subdivision (c), at a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the condition of the facility previously used by the school district at the site shall be considered to be reasonably equivalent to the condition of school district facilities for the first year the charter school uses the facility. During its first year of operation, the charter school shall be subject to charges for pro rata costs pursuant to section 11969.7, but shall not be subject to reimbursement for over-allocated space pursuant to section 11969.8.

(d) Additional Provisions Relating to a Charter School Established at an Existing Public School Site.

The following provisions apply only to a charter school established at an existing public school site pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650 and that operated at the site in its first year pursuant to paragraph (2) of subdivision (c).

(1) The school site, as identified in the school's charter, shall be made available to the school for its second year of operation and thereafter upon annual request pursuant to Education Code section 47614. The district is entitled to charge the charter school pro rata costs for the school site pursuant to section 11969.7, and the district is entitled to receive reimbursement for over-allocated space from the charter school pursuant to section 11969.8, except as provided in paragraph (3).

(2)(A) If, by material revision of the charter, the location of a charter school is changed, or if one or more additional sites are approved pursuant to Education Code section 47605(a)(4), then the school is entitled to request and the district shall provide for the use of facilities by the school in accordance with the revised charter, Education Code section 47614, and the provisions of this article.

(B) If the charter school was established pursuant to Education Code section 47605(a)(2), the district shall change the school's attendance area only if a waiver is first secured from the State Board of Education (SBE) pursuant to Education Code sections 33050–33053 of the requirement in Education Code section 47605(d)(1) that the school continuously give admission preference to students residing in the former attendance area of the school site.

(C) If the charter school was established pursuant to Education Code sections 52055.5, 52055.55, or 52055.650, the district shall relocate the school or change the school's attendance area only if a waiver is first secured from the SBE pursuant to Education Code sections 33050–33053 of the provision of statute binding the school to the existing school site.

(D) If a school district decides to change a charter school's attendance area as provided in subparagraphs (B) or (C), and if the decision occurs between November 1 and June 30 and becomes operative in the forthcoming fiscal year, then the space allocated to the charter school is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the forthcoming fiscal year.

(3) If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocated space pursuant to section 11969.8 in the following year or thereafter, and the district is entitled to occupy all or a portion of the space identified. To recover space surrendered to the district pursuant to this paragraph, a charter school must apply to the district. An application to recover surrendered space shall be evaluated by the district in accordance with the provisions of this article.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 33050-33053, 47605, 47614, 52055.5, 52055.55 and 52055.650, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).
2. Amendment of section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.4. Operations and Maintenance.

(a) Facilities and furnishings and equipment provided to a charter school by a school district shall remain the property of the school district.

(b) The ongoing operations and maintenance of facilities and furnishings and equipment is the responsibility of the charter school. Projects eligible to be included in the school district deferred maintenance plan established pursuant to Education Code section 17582 and the replacement of furnishings and equipment supplied by the school district in accordance with school district schedules and practices, shall remain the responsibility of the school district. The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment, except to the extent variation is approved by the district. However, the charter school need not comply with policies in cases where actual school district practice substantially differs from official policies.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).
2. Amendment of section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.5. Availability.

The space allocated for use by the charter school, subject to sharing arrangements, shall be available for the charter school's entire school year regardless of the school district's instructional year or class schedule and may not be sublet or used for purposes other than those that are consistent with school district policies and practices for use of other public schools of the school district without permission of the school district.

NOTE: Authority cited: Section 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

§ 11969.6. Location.

A school district may satisfy the requirements of Education Code section 47614 by providing facilities that are located outside the school district's boundaries, subject to other provisions of this article and subject to the restrictions on location of charter schools established in Education Code sections 47605 and 47605.1. No school district is required to provide facilities that are located outside the school district's boundaries to a charter school.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 47605, 47605.1 and 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

2. Amendment of section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.7. Charges for Facilities Costs.

If the school district charges the charter school a pro rata share of its facilities costs for the use of the facilities, the pro rata share shall not exceed (1) a per-square-foot amount equal to those school district facilities costs that the school district pays for with unrestricted revenues from the district's general fund, as defined in sections 11969.2(f) and (g) and hereinafter referred to as "unrestricted general fund revenues," divided by the total space of the school district times (2) the amount of space allocated by the school district to the charter school. The following provisions shall apply to the calculation of the pro rata share of facilities costs:

(a) For purposes of this section, facilities costs that the school district pays with unrestricted general fund revenues includes those costs associated with plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases, as defined in section 11969.2(h). For purposes of this section, facilities costs also includes:

(1) contributions from unrestricted general fund revenues to the school district's Ongoing and Major Maintenance Account (Education Code section 17070.75), Routine Restricted Maintenance Account (Education Code section 17014), and/or deferred maintenance fund,

(2) costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, and

(3) costs paid from unrestricted general fund revenue for replacement of facilities-related furnishings and equipment, that have not been included in paragraphs (1) and (2), according to school district schedules and practices.

For purposes of this subdivision, facilities costs do not include any costs that are paid by the charter school, including, but not limited to, costs associated with ongoing operations and maintenance and the costs of any tangible items adjusted in keeping with a customary depreciation schedule for each item.

(b) For purposes of this section, the cost of facilities shall include debt service costs.

(c) "Space allocated by the school district to the charter school" shall include a portion of shared space where a charter school shares a campus with a school district-operated program. Shared space includes, but is not limited to, those facilities needed for the overall operation of the campus, whether or not used by students. The portion of the shared space to be included in the "space allocated by the school district to the charter school" shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the school-district-operated program.

(d) The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided and the largest amount of total space of the school district at any time during the year preceding the fiscal year in which facilities are provided.

(e) The per-square-foot charge shall be applied equally by the school district to all charter schools that receive facilities under this article, and a charter school using school district facilities pursuant to Education Code section 47614 shall report the per-square-foot charge it is paying in the current fiscal year to the California Department of Education (CDE) in any notification the charter school makes to the CDE pursuant to Education Code section 47630.5(b). The CDE shall post the per-square-foot amounts reported by charter schools on its publicly accessible Web site. The CDE shall offer the opportunity to each school district to provide explanatory information regarding its per-square-foot charge and shall post any information received.

(f) If a school district charges a charter school for facilities costs pursuant to this article, and if the district is the charter school's authorizing entity, the facilities are not substantially rent free within the meaning of Education Code section 47613, and the district may only charge for the actual costs of supervisory oversight of the charter school not to exceed one percent of the school's revenue.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 17014, 17070.75, 47613, 47614 and 47630.5, Education Code.

HISTORY

1. New section filed 7–30–2002; operative 8–29–2002 (Register 2002, No. 31).
2. Amendment of section and NOTE filed 2–28–2008; operative 3–29–2008 (Register 2008, No. 9).

§ 11969.8. Reimbursement Rates for Over–Allocated Space.

(a) Space is considered to be over–allocated if (1) the charter school’s actual in–district classroom ADA is less than the projected in–district classroom ADA upon which the facility allocation was based and (2) the difference is greater than or equal to a threshold ADA amount of 25 ADA or 10 percent of projected in–district classroom ADA, whichever is greater. The per–pupil rate for over–allocated space shall be equal to the statewide average cost avoided per pupil set pursuant to Education Code section 42263 for 2005–06, adjusted annually thereafter by the CDE by the annual percentage change in the general–purpose entitlement to charter schools calculated pursuant to Education Code section 47633, rounded to the next highest dollar, and posted on the CDE Web site. The reimbursement amount owed by the charter school for over–allocated space shall be equal to (1) this rate times the difference between the charter school’s actual in–district classroom ADA and the projected in–district classroom ADA upon which the facility allocation was based, less (2) this rate times one–half the threshold ADA. For purposes of this subdivision, the actual in–district classroom ADA shall be determined using the report submitted pursuant to section 11969.9(f) in conjunction with the second principal apportionment under Education Code section 41601.

(b) A charter school must notify the school district when it anticipates that it will have over–allocated space that could be used by the school district. Upon notification by a charter school that the charter school anticipates having over–allocated space, a school district may elect to use the space for school district programs. The school district must notify the charter school whether or not it intends to use the over–allocated space within 30 days of the notification by the charter school. If the school district notifies the charter school that it intends to use all or a portion of the over–allocated space, payments for over–allocated space and pro rata share payments shall be reduced accordingly beginning at the time of the school district notification to use the space. If the school district notifies the charter school that it does not intend to use the space, the charter school must continue to make payments for over–allocated space and pro rata share payments. The school district may, at its sole discretion, reduce the amounts owed by the charter school.

(c) With respect to charter schools established at existing public school sites pursuant to Education Code sections 47605(a)(2), 52055.5, 52055.55, or 52055.650, the provisions of this section are limited by the applicable provisions of subdivisions (c) and (d) of section 11969.3.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 41601, 42263, 47605, 47614, 47633, 52055.5, 52055.55 and 52055.650, Education Code.

HISTORY

1. New section filed 7–30–2002; operative 8–29–2002 (Register 2002, No. 31).
2. Amendment of subsection (a), new subsection (c) and amendment of NOTE filed 2–28–2008; operative 3–29–2008 (Register 2008, No. 9).

§ 11969.9. Procedures and Timelines for the Request for, Reimbursement for, and Provision of, Facilities.

(a) A charter school must be operating in the school district as defined in Education Code section 47614 before it submits a request for facilities. A new or proposed new charter school is operating within the school district and, therefore, eligible to request facilities for a particular fiscal year only if it submitted its charter petition pursuant to Education Code sections 47605, 47605.5, 47605.6, or 47605.8 on or before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated and/or provided access to

facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested.

(b) To receive facilities during a particular fiscal year, a charter school must submit a written facilities request to the school district on or before November 1 of the preceding fiscal year.

(c)(1) The written facilities request consists of:

(A) reasonable projections of in–district and total ADA and in–district and total classroom ADA, based on ADA claimed for apportionment, if any, in the fiscal year prior to the fiscal year in which the facilities request is made, adjusted for expected changes in enrollment in the forthcoming fiscal year;

(B) a description of the methodology for the projections;

(C) if relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in in–district ADA), documentation of the number of in–district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise arithmetical accuracy;

(D) the charter school’s operational calendar;

(E) information regarding the district school site and/or general geographic area in which the charter school wishes to locate; and

(F) information on the charter school’s educational program, if any, that is relevant to assignment of facilities.

(2) Projections of in–district ADA, in–district classroom ADA, and the number of in–district students shall be broken down by grade level and by the school in the school district that the student would otherwise attend.

(3) School districts may require the charter school to submit its facilities request containing the information specified in paragraphs (1) and (2) on a form available from the CDE and developed in consultation with the Advisory Commission on Charter Schools (ACCS) or another form specified by the school district. School districts may also require the charter school either to distribute a reasonable number of copies of the written facilities request for review by other interested parties, such as parents and teachers, or to otherwise make the request available for review.

(d) The school district shall review the charter school’s projections of in–district and total ADA and in–district and total classroom ADA and, on or before December 1, express any objections in writing and state the projections the district considers reasonable. If the district does not express objections in writing and state its own projections by the deadline, the charter school’s projections are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

(e) On or before January 2, the charter school shall respond to any objections expressed by the school district and to the district’s projections provided pursuant to subdivision (d). The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to subdivision (d). If the charter school does not respond by the deadline, the district’s projections provided pursuant to subdivision (d) are no longer subject to challenge, and the school district shall base its offer of facilities on those projections.

(f) On or before February 1, the school district shall prepare in writing a preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include (1) the projections of in–district classroom ADA on which the proposal is based, (2) the specific location or locations of the space, (3) all conditions pertaining to the space, including a draft of any proposed agreement pertaining to the charter school’s use of the space, and (4) the projected pro rata share amount and a description of the methodology used to determine that amount. The district shall also provide the charter school a list and description of the comparison group schools used in developing its preliminary proposal, and a description of the differences between the preliminary proposal and the charter school’s facilities request as submitted pursuant to subdivision (b).

(g) On or before March 1, the charter school shall respond in writing to the school district's preliminary proposal made pursuant to subdivision (f), expressing any concerns, addressing differences between the preliminary proposal and the charter school's facilities request as submitted pursuant to subdivision (b), and/or making counter proposals.

(h) On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to subdivision (g), the school district shall submit in writing a final notification of the space offered to the charter school. The notification shall include a response to the charter school's concerns and/or counter proposals (if any). The notification shall specifically identify:

(1) the teaching station, specialized classroom space, and non-teaching station space offered for the exclusive use of the charter school and the teaching station, specialized classroom space, and non-teaching station space to which the charter is to be provided access on a shared basis with district-operated programs;

(2) for shared space, the arrangements for sharing;

(3) the in-district classroom ADA assumptions for the charter school upon which the allocation is based and, if the assumptions are different than those submitted by the charter school pursuant to subdivision (e), a written explanation of the reasons for the differences;

(4) the specific location or locations of the space;

(5) all conditions pertaining to the space;

(6) the pro rata share amount; and

(7) the payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes.

(i) The charter school must notify the school district in writing whether or not it intends to occupy the offered space. This notification must occur by May 1 or 30 days after the school district notification pursuant to subdivision (h), whichever is later. The charter school's notification can be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the school district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the school district by this deadline that it intends to occupy the offered space, then the space shall remain available for school district programs and the charter school shall not be entitled to use facilities of the school district in the following fiscal year.

(j) The space allocated to the charter school by the school district (or to which the school district provides the charter school access) must be furnished, equipped and available for occupancy by the charter school for a period of at least ten working days prior to the first day of instruction of the charter school. For good cause, the period is subject to reduction by the school district, but to no fewer than seven working days.

(k) The school district and the charter school shall negotiate an agreement regarding use of and payment for the space. The agreement shall contain at a minimum, the information included in the notification provided by the school district to the charter school pursuant to subdivision (h). In addition:

(1) The charter school shall maintain general liability insurance naming the school district as an additional insured to indemnify the school district for damage and losses for which the charter school is liable. The school district shall maintain first party property insurance for the facilities allocated to the charter school.

(2) The charter school shall comply with school district policies regarding the operations and maintenance of the school facility and furnishings and equipment.

(3) A reciprocal hold-harmless/indemnification provision shall be established between the school district and the charter school.

(4) The school district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code section 47610(d) or 47610.5.

(l) The charter school must report actual ADA to the school district every time that the charter school reports ADA for apportionment purposes. The reports must include in-district and total ADA and in-district and total classroom ADA. The charter school must maintain records documenting the data contained in the reports. These records shall be available on request by the school district.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Sections 47605, 47605.5, 47605.6, 47605.8, 47610, 47610.5 and 47614, Education Code.

HISTORY

1. New section filed 7-30-2002; operative 8-29-2002 (Register 2002, No. 31).

2. Amendment of section and NOTE filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9).

§ 11969.10. Mediation of Disputes.

If a dispute arises between a school district and a charter school concerning the provisions of Education Code section 47614 or this article, nothing in this article shall preclude the dispute being subject to mediation in accordance with the procedures set forth in this section, if agreeable to both parties. Mediation consists of the following:

(a) The initiating party shall select a mediator, subject to the agreement of the responding party. If, though agreeing to mediation, the parties are unable to agree upon a mediator, the CDE shall be requested by the initiating party to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.

(b) Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolution process shall prepare and send to both the responding party and the mediator a notice of dispute that shall include the following information:

(1) The name, address, and phone numbers of designated representatives of the parties;

(2) A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute;

(3) The specific sections of the statute or regulations that are in dispute; and

(4) The specific resolution sought by the initiating party.

(c) Within seven days of receiving the information specified in subdivision (b), the responding party shall file a written response.

(d)(1) The mediation procedure shall be entirely informal in nature. However, copies of exhibits upon which either party bases its case shall be shared with the other party. The relevant facts shall be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses. The rules of evidence will not apply and no record of the proceedings will be made.

(2) If an agreement is reached, the agreement shall be reduced to writing and shall be signed by the school district and the charter school. The agreement shall not set a precedent for any other case.

(3) If the school district and the charter school fail to meet within the specified time line, have not reached an agreement within 15 days from the first meeting held by the mediator, or if the mediator declares the parties at impasse, the mediation is terminated.

(e) The costs of the mediation shall be divided equally by the two parties and paid promptly.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 2-28-2008; operative 3-29-2008 (Register 2008, No. 9). For prior history, see Register 2002, No. 37.

§ 11969.11. Operative Date of Changes.

The changes to this article made during 2007 and 2008 and filed with the Secretary of State in February 2008 shall become operative with the requests submitted by charter schools during fiscal year 2008-09 for the use of facilities in fiscal year 2009-10.

NOTE: Authority cited: Sections 33031 and 47614(b), Education Code. Reference: Section 47614, Education Code.

HISTORY

1. New section filed 2–28–2008; operative 3–29–2008 (Register 2008, No. 9).

Subchapter 20. Education Technology Staff Development Program

§ 11970. Definitions.

For purposes of the Education Technology Staff Development Program pursuant to Education Code sections 44730–44731 the following definitions shall apply:

(a) “Action plan” as used in Education Code section 44731(d) means a written document that outlines how the use of education technology will be integrated into the curriculum through the incorporation of education technology into any professional development. This plan should explain how education technology will be successfully included in existing professional development programs such as, the Instructional Time and Staff Development Reform Program, the beginning Teacher Support and Assessment Program; the Mentor Teacher Program; the Bilingual Teacher Training Program; Inter-segmental Staff Development; Demonstration Programs in Intensive Instruction; Teacher Instructional Training in Math; Reading Instruction Training in Grades 4–12; Special Education; Administrator Training; and, National Board Certification.

While each participating school must have an action plan for its grades 4 through 8 teachers and staff, the action plan may be developed at the school district level if that is how staff development program decisions have been made historically in the school district.

(b) “Classroom” as used in Education Code section 44731(a) means a room in which students in grades 4 through 8 receive core curriculum instruction for some or all of the school day. Core curriculum instruction includes language arts, math, science, and history. Excluded from this definition of classroom are libraries, computer labs, multi-purpose rooms and gymnasiums.

(c) “Internet access” as used in Education Code section 44731(a) means a networked connection to the Internet either through (1) one computer in the classroom that is also connected to an LCD panel, television, or other device that allows it to be viewed by the entire class or (2) all the computers in the classroom necessary to meet the definition of “sufficient number of computers in the classroom.” The number of classrooms with Internet access is determined on the date the local governing board certifies the application; however, connections to be completed under an E-Rate funding commitment letter by the end of the state fiscal year in which the application for this program is made may also be counted.

(d) “Sufficient number of computers” as used in Education Code section 44731(a) means one computer per ten students in the classroom. The number of computers per classroom is determined on the date the local governing board certifies the application.

(e) “Up-to-date computers” as used in Education Code section 44731(a) means multimedia computers with access to a CD-ROM, internally or over a network, that have the capacity to access web-based resources.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44730 and 44731, Education Code.

HISTORY

1. New subchapter 20 (section 11970) and section filed 3–23–99 as an emergency; operative 3–23–99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–21–99 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–23–99 order transmitted to OAL 7–21–99 and filed 8–31–99 (Register 99, No. 36).

Subchapter 20.5. Enhancing Education Through Technology Grant Program

§ 11971. Purpose.

The purpose of these regulations is to set forth guidelines for program administration and allocation of funds to administer the competitive grants pursuant to the federal Enhancing Education Through Technology Act of 2001.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.10–52295.55, Education Code; Public Law 107–110, Title II, Part D, Sections 2401–2441; and 20 USC Sections 6751–6777.

HISTORY

1. New subchapter 20.5 (sections 11971–11979.5) and section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–23–2003 order transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

§ 11972. Federal Definition.

For purposes of the Enhancing Education Through Technology (EETT) Competitive Grant pursuant to the federal No Child Left Behind (NCLB) legislation (Public Law 107–110, Title II, Part D, Sections 2401–2441), the following definition shall apply:

(a) “Not of sufficient size to be effective” as used in Section 2412 of the federal No Child Left Behind legislation (Public Law 107–110, Title II, Part D) means that a district received less than \$10,000 in funding from the EETT formula-funded grant.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Public Law 107–110, Title II, Part D, Section 2412; and 20 USC Section 6762.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–23–2003 order transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

§ 11973. State Definitions.

For purposes of the requirements for the competitive Education Technology Grant Program established by Senate Bill 192 (Education Code sections 52295.10–52295.55), the following definitions shall apply:

(a) “School district” as used in SB 192 (O’Connell), Education Code section 52295.25, for purposes of EETT competitive grant eligibility, means a school district, a consortium of school districts, a county office of education, or a direct-funded charter school (i.e., charter schools in which the state warrant will be drawn in favor of the county superintendent of schools of the county in which the charter approving Local Education Agency (LEA) is located and deposited in the appropriate fund or account of the charter school) that meet all of the following criteria:

(1) It is among the school districts in the state with the highest number or percentage of children from families with an income below the poverty line established by the federal Director of the Office of Management and Budget, as annually revised by the Secretary of Health and Human Services; and

(2) It serves pupils in grades 4 to 8, inclusive, except as specified in subdivision (c) of Education Code section 52295.35; and

(3) It meets either of the following two criteria:

(A) It operates one or more schools identified for improvement or corrective action under Section 1116 of the federal No Child Left Behind Act of 2001 (Public Law 107–110) (schools are listed on the California Department of Education website (<http://www.cde.ca.gov/iasa/titleone/pi/query.asp>); or

(B) It has a substantial need for assistance in acquiring and using technology.

(b) "Substantial need for assistance in acquiring and using technology" as used in SB 192 (O'Connell), Education Code section 52295.25(a)(2)(B), means having either an average of 10:1 student-to-multimedia computer ratio or greater in schools serving grades 4–8 in the district or an average of less than 50% of classrooms connected to the Internet in schools serving grades 4–8 in the district as determined by the California School Technology Survey for the year prior to the grant award. Technology purchased through the School Renovation Technology Grant will be considered when calculating the student-to-multimedia computer ratio.

(c) "Eligible schools" as used in SB 192 (O'Connell), Education Code section 52295.35(a), means schools from eligible school districts that serve students in grades 4–8.

(d) "Small schools" as used in SB 192 (O'Connell), Education Code section 52295.35(c), means schools that have 300 or fewer pupils in all grades served.

(e) "Minimum grant levels for a small school" as used in SB 192 (O'Connell), Education Code section 52295.35 (c), means an implementation grant base amount of \$25,000 for 1–100 eligible pupils plus \$300 per eligible pupil in excess of the first 25 eligible pupils; an implementation grant base amount of \$15,000 for 101–200 eligible pupils plus \$300 per eligible pupil in excess of the first 25 eligible pupils; and an implementation grant base amount of \$10,000 for 201–300 eligible pupils, plus \$300 per eligible pupil in excess of the first 25 eligible pupils.

(f) "Amount of funding for grants available to each region" as used in SB 192 (O'Connell), Education Code section 52295.35(a), means the proportional enrollment of grade 4–8 pupils, in eligible districts from each of the eleven California Technology Assistance Project (CTAP) regions. (See the California Department of Education (CDE) website: <<http://www.cde.ca.gov/edtech/ctap.htm>>.)

(g) "Successfully completes" as used in SB 192 (O'Connell), Education Code section 52295.35(d), means the school district has met or made significant progress (accomplished 70% or greater of each required benchmark included in the Enhancing Education Through Technology (EETT) Competitive grant application as well as any additional benchmark(s) added by the Local Education Agency (LEA)) in meeting its

end-of-grant award accountability measures and will be eligible to apply for the one-time follow-up grant award, depending on funding availability.

(h) "Accountability measures" as used in SB 192 (O'Connell), Education Code Section 52295.45(e), means the following six performance goal benchmarks:

(1) The percentage of students in the target group that demonstrate an increase in their use of technology as a tool to support meeting or exceeding academic content standards will increase from a baseline of <provided by school district>% in the first year of the grant award to <provided by school district>% by the date specified in the EETT Competitive grant application to <provided by school district>% by the end of the second implementation grant as specified in the EETT Competitive application and defined in Section 11973(i).

(2) Teachers in the target group who participated in professional development on education technology will demonstrate an increase in their proficiency in the use of technology as a tool for teaching and learning from a baseline of <provided by school district>% in the first year of the grant award to <provided by school district>% by the date specified in the EETT Competitive grant application and to <provided by school district>% by the end of the second implementation grant as specified in the EETT Competitive application and defined in Section 11973(i).

(3) Teachers in the target group participating in professional development on education technology will increase their use of technology as a tool to support student academic achievement from a baseline of <provided by school district>% in the first year of the grant award to <provided by school district>% by the date specified in the EETT Competitive grant application and to <provided by school district>% by the end of the second implementation grant as specified in the EETT Competitive application and defined in Section 11973(i).

(4) The average student-to-multimedia computer ratio at funded schools in the application will decrease from a baseline of <ratio provided by school district>% in the first year of the grant award to <ratio provided by school district> by the date specified in the EETT Competitive grant application and to <ratio provided by school district> by the end of the second implementation grant as specified in the EETT Competitive application and defined in Section 11973(i).

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(5) The percentage of funded schools in the application with less than 50% of classrooms connected to the Internet will decrease from a baseline of <provided by school district>% in the first year of the grant award to <provided by school district>% by the date specified in the EETT Competitive grant application and to <provided by school district>% by the end of the second implementation grant as specified in the EETT Competitive application and defined in Section 11973(i).

(6) Describe the communication and collaboration utilizing technology that will be implemented or improved to support home, school, and community; how that implementation or improvement will be measured; and the benchmark that will be targeted.

(i) "Implementation grant" as used in SB 192 (O'Connell), Education Code Section 52295.35(c), means the EETT Competitive grant funding awarded to LEAs to implement, monitor and evaluate their comprehensive program as written in their approved applications. Each funding cycle for the EETT Competitive grant may have up to two implementation grants that total the complete grant award amount for the LEA.

(j) "Allotment" means the distribution of funds via payments to LEAs for the implementation grant(s). Allotments for implementation grant funds may be distributed to LEAs in not less than two payments nor more than four payments.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.10, 52295.20, 52295.25, 52295.35 and 52295.45, Education Code; Public Law 107-110, Title II, Part D, Sections 2403, 2412 and 2414; and 20 USC Sections 6753, 6762 and 6764.

HISTORY

1. New section filed 4-3-2003 as an emergency; operative 4-23-2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-1-2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4-23-2003 order, including amendment of subsections (b), (f) and (h)(5), transmitted to OAL 7-15-2003 and filed 8-26-2003 (Register 2003, No. 35).
3. Amendment of subsections (g)-(h)(5) and new subsections (i) and (j) filed 5-24-2004; operative 5-24-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11974. Eligibility Requirements.

To be eligible for EETT competitive grant funding, applicants must:

- (a) Meet the definition of a school district, as referenced above in Section 11973(a);
- (b) Have a district technology plan as required by Education Code Sections 52295.35 and 51871.5 and by Public Law 107-110, Title II, Part D Section 2414 (20 USC Section 6764);
- (c) Apply for the EETT competitive grant;
- (d) Complete EETT Forms 1-7 (see Section 11975, (a)-(g)) and, when applicable Forms 8a, 8b, and 8c and 9, (see Section 11975, (h)-(k));
- (e) Complete the application narrative;
- (f) Submit the EETT Competitive application not later than the due date specified by the CDE to the California Department of Education, Education Technology Office, located at 1430 N Street, Sacramento, CA, 95814;
- (g) Pass the CDE pre-screening for application completeness and format that includes having all of the required application components, including completed EETT Forms 1-9 as applicable, original signatures as needed, pages numbered according to format requirements; and
- (h) Receive a minimum of 50% of the score possible on the EETT Scoring Criteria. Those criteria are incorporated by reference and were issued on April 9, 2003.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.10, 52295.20, 52295.25, 52295.30, 52295.35 and 52295.45, Education Code; Public Law 107-110, Title II, Part D, Sections 2403, 2412 and 2414; and 20 USC Sections 6753, 6762 and 6764.

HISTORY

1. New section filed 4-3-2003 as an emergency; operative 4-23-2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8-1-2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 4-23-2003 order, including amendment of subsection (f) and NOTE, transmitted to OAL 7-15-2003 and filed 8-26-2003 (Register 2003, No. 35).
3. Amendment of subsection (f) filed 5-24-2004; operative 5-24-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11975. Application Process and Requirements.

The application will consist of EETT Forms 1 through 9 that provide information about the applicant. Each of the forms is listed below in subsections (a)-(k). Each of these forms is hereby incorporated by reference. The application will also consist of a narrative section, described below in subsection (l).

(a) Form 1, Application Title Page, revised August 26, 2003. This form must be signed and dated by the applicant's superintendent or designee. If the applicant is applying as part of a consortium and/or partnership, the lead agency name shall be given.

(b) Form 2, Certification Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, and Drug-Free Workplace Requirements, revised April 9, 2003. This form must include the place of performance address, name of applicant, printed name, title, date, and signature of authorized representative.

(c) Form 3, Project Summary, revised August 26, 2003. The applicant must provide a concise description of the proposed comprehensive program planned through the EETT competitive grant. The summary must include (1) a statement of the overall intent of the program funds; (2) how the comprehensive program will support current school district efforts to promote teaching and enhance learning; and (3) how the program will be implemented.

(d) Form 4, Accountability Measures/Evaluation, revised August 26, 2003. The applicant must include information for the required performance benchmarks for each of the accountability measures, list the data source(s) (in addition to any data sources that are required), describe the data collection method to be used, and list the schedule for evaluation. The applicant may add additional performance goals and benchmarks beyond the six accountability measures listed on the form.

(e) Form 5, Strategies Chart, revised April 9, 2003. The applicant must describe the specific strategies and actions that will be implemented to achieve each of the performance goals and benchmarks referenced above. The benchmark date for the strategies/actions on Form 5 (referenced in Section 11975 (f): Time Line, Roles and Responsibilities for Key Personnel) must be included.

(f) Form 6, Time Line, Roles, and Responsibilities for Key Personnel, revised April 9, 2003. The applicant must include sufficient detail so that a clear process for implementation of the grant is outlined. At a minimum, applicants should include planning meetings, data collection dates, recruitment/selection for professional development leaders (i.e., coaches, mentors, facilitators), recruitment/selection for professional development program participants, selection/ordering of equipment and electronic learning resources, major milestones (including strategies/actions for achieving each of the program goals referenced in Section 11975 (e)) for program implementation.

(g) Form 7a, Budget for Years 1 and 2, revised August 26, 2003. The applicant must provide a listing and description for each object of expenditure to be acquired under this grant.

(h) Form 7b, Budget Narrative for Years 1 and 2, revised August 26, 2003. The applicant must provide a description of costs for each object of expenditure for which grant funding will be allocated.

(i) Form 8a, Priority List of Eligible Middle and Junior High Schools for Which the District, Consortium, and/or Partnership is Applying, revised August 26, 2003. As applicable, the applicant must list in priority order all the eligible middle and junior high schools serving grades 4-8 for which the district, consortium, and/or partnership is applying for funding. The applicant must also indicate whether the listed school or schools is/are a locally-funded charter school (i.e., charter schools that receive their funding through the LEA that approved the charter).

(j) Form 8b, Priority List of Eligible Elementary Schools for Which the District, Consortium, and/or Partnership is Applying, revised August 26,

2003. As applicable, the applicant must list in priority order all the eligible elementary schools serving grades 4–8 for which the district, consortium, and/or partnership is applying for funding, indicating whether the listed school or schools is/are a locally-funded charter school.

(k) Form 8c, Priority List of Eligible Other Schools Serving Grades 4–8 for Which the District, Consortium, and/or Partnership is Applying, revised August 26, 2003. As applicable, the applicant must list in priority order all the other schools serving grades 4–8 for which the district, consortium, and/or partnership is applying for funding, indicating whether the listed school or schools is/are a locally-funded charter school.

(l) Form 9, Consortium and/or Partnership Applicants, revised August 26, 2003. As applicable, the applicant must identify the lead school district and list all applicants within the consortium and/or partnership.

(m) The Application Narrative must include the following sections:

- (1) Program for Students;
- (2) Professional Development;
- (3) Expanded Access for Electronic Learning Resources, Including Infrastructure, Equipment, and Technical Support;
- (4) Communication and Collaboration with Home, School, and Community; and
- (5) Evaluation.

(n) The application narrative sections are described in (1) through (5) below:

(1) Program for Students. This section includes the program description, number of students who will participate in the program, grade levels of students who will participate in the program, curricular area(s) of focus for students, integration of technology to support all students in the target group in meeting or exceeding state academic content standards, and administrative commitment to the program for students.

(2) Professional Development. This section includes the research-based professional development program design and description, the number of teachers who will participate, whether the program will be expanded over time to include additional teachers, and administrative commitment to the professional development program.

(3) Expanded Access to Electronic Learning Resources, Including Infrastructure, Equipment and Technical Support. This section includes information about the current status of technology access, including the ratio of access to technology for teachers and students, how many grade 4–8 classrooms are connected to the Internet, where the technology will be placed, integration of technology, technology acquisition, and administrative commitment to expanding access.

(4) Communication and Collaboration Among Home, School, and Community. This section includes information about collaboration and partnerships (i.e., higher education, school districts that have effectively integrated technology and proven teaching strategies based on a review of relevant research into instruction, public or private non-profit organizations with demonstrated expertise in the application of educational technology in education, CTAP) that includes how they support students' learning needs, add value to the comprehensive program, and whether there is administrative commitment for communication and collaboration among home, school, and community.

(5) Evaluation. This section includes information regarding the process to collect and evaluate data related to all of the accountability measures. The evaluation process and results will be utilized to form the basis of a continuous review, refinement, and improvement cycle for the comprehensive program. The evaluation plan also provides a process that will assist CDE in documenting goals and benchmarks to determine eligibility for the one-time follow-up grant.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.20, 52295.30, 52295.35, 52295.45 and 52295.50, Education Code.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 4–23–2003 order, including amendment of section, transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

3. Amendment filed 5–24–2004; operative 5–24–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11976. District Technology Plan Requirement.

Before receiving funding for the EETT competitive grant, applicants must have a district technology plan as required by Education Code sections 52295.35 and 51871.5 and by Public Law 107–110, Title II, Part D Section 2414 (20 USC Section 6764).

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.35 and 51871.5, Education Code; Public Law 107–110, Title II, Part D, Section 2414; and 20 USC Section 6764.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 4–23–2003 order transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

§ 11977. Funding.

Funds will be competitively awarded on a geographic basis conforming to the 11 CTAP regions, as referenced above in Section 11973(f). Applicants within each region will compete against other applicants from that region. The amount of funding available for each region is based upon the California Basic Educational Data System (CBEDS) data two years prior to the grant award to determine grade 4–8 enrollment. Actual grant awards to school districts will be based on CBEDS data for one year prior to the grant award. Technology survey data will be used to determine the current student-to-multimedia computer ratio and compare to the request for additional technology within the application. Allocations are determined through the following procedure:

(a) Listing of districts serving grades 4–8 in the state with the highest number of children from families with an income below the poverty line established by the federal Director of the Office of Management and Budget;

(b) Listing of districts serving grades 4–8 in the state with the highest percentage of children from families with an income below the poverty line established by the federal Director of the Office of Management and Budget;

(c) Merging the top third of the districts from each list to determine final eligibility list;

(d) Removing all districts that neither (1) operate one or more schools identified for improvement or corrective action under Section 1116 of the Federal No Child Left Behind Act of 2001 (Public Law 107–110), nor (2) have a substantial need for assistance in acquiring and using technology;

(e) Sorting the list by CTAP region;

(f) Determining the grade 4–8 enrollment for all districts remaining on the list, and

(g) Determining the proportionate amount of funding for each CTAP region based upon the total grade 4–8 enrollment for all districts remaining on the list.

NOTE: Authority cited: Sections 52295.30 and 52295.35, Education Code. Reference: Sections 52295.25 and 52295.35, Education Code.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 4–23–2003 order, including amendment of first paragraph, transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

3. Amendment of first paragraph filed 5–24–2004; operative 5–24–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11978. Funding Priority.

Funding priority will be determined as follows:

(a) All scored applications will be grouped within each CTAP region by score percentage ranges (100–90, 89–80, 79–70, 69–60, and 59–50);

(b) Within each score percentage range, applications will be ranked as follows:

(1) Applications from school districts that received less than \$10,000 in funding from the EETT formula grant will be ranked by score percentage and listed first. In the event of a tied score, the applicant with the higher substantial need for assistance in acquiring and using technology as determined by the California School Technology Survey will be listed first.

(2) Applications from school districts that received \$10,000 or more from the EETT formula funding will be ranked by score percentage range and placed below the school districts that received less than \$10,000 in EETT formula funding. In the event of a tied score, the applicant with the higher substantial need for assistance in acquiring and using technology as determined by the California School Technology Survey will be listed first.

(c) Starting with the 100–90 score percentage range and working downward, funding will then be allocated within each scoring percentage range to school districts based upon the middle and junior high schools contained in each application.

(d) If there is a balance remaining after all middle and junior high schools have been funded, starting with the 100–90 score percentage range and working downward, funding will next be allocated within each scoring percentage range to each school district based upon the elementary schools in each application.

(e) If there is a balance remaining after all elementary schools have been funded, starting with the 100–90 score percentage range and working downward, funding will be allocated within each score percentage range to each school district based upon the other schools serving grades 4–8 in the application.

School type will be verified prior to funding. School type will be determined based on the County District School (CDS) ownership code for each school listed on forms 8a, 8b, and 8c (see Section 11975(h)–(j)) as of the date the grant application is due. School districts that request a change of ownership code must have completed a Change Request for a County–District–School (CDS) Code (revised 6/2003), and submitted the form to the California Department of Education a minimum of 30 (thirty) working days prior to the grant application deadline to assure the correct ownership code can be validated.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.30 and 52295.35, Education Code; Public Law 107–110, Title II, Part D Section 2412; and 20 USC Section 6762.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–23–2003 order, including new final paragraph, transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).
3. Amendment of subsections (b)(1)–(2) filed 5–24–2004; operative 5–24–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11979. Process for Awarding Grants.

The process for awarding grants will be as follows:

(a) Applications will be read and scored with other applications from the same CTAP region after the application deadline by readers selected by CDE. Each reader will read and score the application against the Scoring Criteria. Those criteria are incorporated by reference and were issued on April 9, 2003. Readers will not read applications from their own CTAP region. If the readers' scores for the application are not more than 10 points apart, the two scores will be averaged to yield the final application score. If the readers' scores are more than 10 points apart, the application will be re-read and re-scored by a Chief Reader. The Chief Reader's score determination will be the final score.

(b) Awards for each successful applicant for the implementation grant will be made in two allotments as follows:

- (1) One allotment for two-thirds of the grant award total.
- (2) A second allotment for one-third of the grant award total.

(c) A one-time follow-up grant, depending on funding availability, may be awarded if the applicant successfully completes the implementation grant, as referenced in Section 11973(g). For schools not defined as "small school" as referenced above in Section 11973(d), the one-time follow-up grant may be in the amount of \$45 per eligible pupil. For those defined as "small school" as referenced above in Section 11973(d), the one-time follow-up grant may be allocated:

- (1) \$6,000 for 1–100 eligible students;
- (2) \$10,000 for 101–200 eligible students;
- (3) \$13,500 for 201–300 eligible students.

(d) The one-time follow-up grant may be awarded, subject to funding availability, only after the CDE verifies that the LEA has met or made significant progress in meeting its accountability measures as referenced in Section 11973(g).

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.10 and 52295.35, Education Code.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–23–2003 order, including amendment of subsections (b)(1)–(2), transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).
3. Amendment of subsections (b)–(c) and (d) filed 5–24–2004; operative 5–24–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 22).

§ 11979.5. Uses of Funds.

Pursuant to the federal No Child Left Behind (NCLB) legislation (Public Law 107–110, Title II, Part D, Sections 2415 and 2416) and SB 192 (O'Connell), Education Code section 52295.40, grantees shall use grant funds to provide the following:

(a) A minimum of 25% of the grant shall be used to provide sustained and intensive, high-quality professional development based on a review of relevant research in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments.

(b) Remaining funds are to be utilized to implement and support the comprehensive program described in the application in a manner consistent with the federal Education Department Guidelines Administrative Regulations (EDGAR), located at 34 CFR Parts 76, 77, 80, 81, 82, 85, and 86 (<http://www.access.gpo.gov/cgi-bin/cfrassemble.cgi?title=199834>) and with SB 192 (O'Connell), Education Code section 52295.40.

NOTE: Authority cited: Section 52295.30, Education Code. Reference: Sections 52295.20, 52295.35, 52295.40 and 52295.50, Education Code; Public Law 107–110, Sections 2415 and 2416; 20 USC 6765 and 6766; 34 CFR Parts 76, 77, 80, 81, 82, 85 and 86.

HISTORY

1. New section filed 4–3–2003 as an emergency; operative 4–23–2003 (Register 2003, No. 14). A Certificate of Compliance must be transmitted to OAL by 8–1–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–23–2003 order transmitted to OAL 7–15–2003 and filed 8–26–2003 (Register 2003, No. 35).

Subchapter 21. Mathematics and Reading Professional Development Program

§ 11980. Teacher Eligibility.

In addition to those teachers identified in Education Code section 99233, teachers who are employed in a public school, who hold a multiple-subject credential, and whose primary assignment is to teach in a classroom that is not self-contained shall be eligible to receive instruction in:

(a) Mathematics if their primary teaching assignment is mathematics, science, or both;

(b) Reading if their primary teaching assignment is reading/language arts, social science, or both.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99233, Education Code.

HISTORY

1. New subchapter 21 (sections 11980–11986) and section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–25–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
3. Renumbering of former section 11980 to section 11982 and renumbering and amendment of former section 11981 to section 11980 filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11981. Funding Allocation for Program Training Pursuant to Education Code Section 99237.

(a) Funds issued to a Local Educational Agency (LEA) for mathematics or reading/language arts training pursuant to Education Code section 99237 shall be used for expenses related to program training in accordance with that section. If an LEA has any remaining program funds after paying for program training, then those funds shall be spent for additional program training pursuant to Education Code section 99237 or for other professional development related to mathematics or reading/language arts.

(b) At the end of each state fiscal year, the California Department of Education (CDE) shall accrue any remaining balance in the appropriations for this program until funding reverts for a state fiscal year. Accrued funding shall be used only to pay for training completed during the same state fiscal year in which the accrued funding was appropriated. CDE shall allocate accrued funding pursuant to Education Code section 99234.

(c) Current-year funding shall be allocated in accordance with Education Code section 99234(e).

(d) Reimbursement for program training is limited to those teachers who provide direct instruction to pupils on either a part-time or full-time basis.

(e) Of the \$1,000 stipend per qualified training that an LEA may pay a teacher, no more than \$500 may be paid upon completion of the 40 hours of initial training, and no more than \$500 may be paid upon completion of the 80 hours of follow-up professional development.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234 and 99237, Education Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–25–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
3. Amendment filed 11–4–2004; operative 11–4–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 45).
4. Renumbering of former section 11981 to section 11980 and renumbering of former section 11982 to section 11981, including amendment of section heading, section and NOTE, filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11981.3. Funding Allocation for Teachers of English Learners.

(a) Program funds issued to an LEA for the 40-hour English learner (EL) professional development for teachers of EL pupils shall be used for the EL professional development program described in Education Code section 99237.5. If an LEA has any remaining program funds after paying for EL professional development, then those funds shall be spent for additional EL professional development pursuant to Education Code section 99237.5 or for other professional development which focuses on improving the delivery of mathematics or reading/language arts instruction to EL pupils.

(b) At the end of each state fiscal year, the CDE shall accrue any remaining balance in the appropriations for this program until funding reverts for a state fiscal year. Accrued funding shall be used only to pay for training completed during the same state fiscal year in which the funding

was appropriated. From funds appropriated in the annual Budget Act for Education Code section 99237.5 in a given state fiscal year, the CDE shall allocate accrued funding as follows:

(1) Claims for EL training that are postmarked or faxed to the CDE by November 15th of the following state fiscal year and that meet at least one of the three funding criteria specified in Education Code section 99237.5(c) shall receive first priority for funding. An LEA shall indicate on the claim each criterion under which it qualifies for priority in funding. If funding is insufficient to fully fund all of these claims, then the CDE shall prorate the funds. The proration shall consist of first dividing the funds appropriated in the annual Budget Act by the product of \$1,250 and the total number of teachers who received EL training as reflected in these first priority claims. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that the amount appropriated in the annual Budget Act is not exceeded.

(2) If funding remains after paying all the claims specified in subdivision (b)(1), then claims for EL training that are postmarked or faxed to the CDE by November 15th of the following state fiscal year and that do not meet any of the funding criteria specified in Education Code section 99237.5(c) shall receive second priority for funding. If funding is insufficient to fully fund all of these claims, then the CDE shall prorate the funds. The proration shall consist of first dividing the remaining funds by the product of \$1,250 and the total number of teachers who received EL training as reflected in these second priority claims. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that the amount appropriated in the annual Budget Act is not exceeded.

(3) If funding remains after paying all the claims specified in subdivisions (b)(1) and (b)(2), then claims for EL training that are postmarked or faxed to the CDE after November 15th of the following state fiscal year shall be funded on a first-come-first-served basis according to the date the claim is postmarked or faxed and provided the claim is postmarked or faxed by the second March 1st date after the November 15th date in this subdivision. If funding is insufficient to fully fund all the claims received on the same day, then the CDE shall prorate the funds. The proration shall consist of first dividing the remaining funds by the product of \$1,250 and the total number of teachers who received EL training as reflected in the claims received by the CDE on that day. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that the amount appropriated in the annual Budget Act is not exceeded.

(c) If a teacher elects to count the completion of 40-hours EL professional development towards the 80 hours of follow-up professional development described in Education Code section 99237, the LEA may request \$1,250 reimbursement after the teacher has completed the 40-hours EL professional development and another \$1,250 reimbursement after the teacher has completed the remaining 40 hours of the 80 hours of follow-up professional development. Of these amounts, the LEA may issue an individual teacher stipend up to \$500 after completion of the 40-hours EL professional development and up to another \$500 after completion of the remaining 40 hours of the 80 hours of the follow-up professional development.

(d) A claim transmitted to the CDE by facsimile during the hours of 12:00 midnight to 5 p.m. is deemed faxed on the date received. A claim that begins transmission on or after 5:01 p.m. is deemed faxed on the next regular business day.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234 and 99237.5, Education Code.

HISTORY

1. New section filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11981.5. Funding Limitations.

(a) Funding for training pursuant to Education Code section 99237 shall be limited to one 120-hour sequence of professional development divided into 40 hours of initial training and 80 hours of follow-up professional development per subject area for each teacher eligible to receive instruction as set forth in Education Code section 99233 and California Code of Regulations, title 5, section 11980. In addition to the funding available under Education Code section 99237, funding for EL training pursuant to Education Code section 99237.5 is limited to a total of 40 hours for each teacher of EL pupils.

(b) Program funding shall be limited to one training per subject area for each paraprofessional and instructional aide eligible to receive instruction as set forth in Education Code section 99233.

(c) Notwithstanding subdivision (a), the State Superintendent of Public Instruction shall also award funding pursuant to Education Code section 99234 for additional professional development training to eligible teachers if any of the following conditions applies:

(1) The LEA has adopted a new instructional materials program and approved training is available for the new program;

(2) The teacher's assignment has changed; or

(3) The teacher's course assignment has changed to an area in which the teacher has not previously received the applicable training.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234, 99237 and 99237.5, Education Code.

HISTORY

1. Renumbering of former section 11985 to section 11981.5, including amendment of section heading, section and NOTE, filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11982. Local Education Agencies' Assurances of Compliance.

In addition to the assurances specified in Education Code section 99237(a), an LEA applying for funding from the Mathematics and Reading Professional Development Program shall provide assurances to the California State Board of Education (SBE) that:

(a) It has read and is familiar with the regulations governing the program, which include California Code of Regulations, title 5, sections 11980 through 11985.6;

(b) It will retain and provide all information, including preprogram and postprogram pupil achievement data, required for the interim and final reports to the Legislature as required by Education Code section 99237.5 and 99240; and

(c) It will retain all records related to the professional development provided to participants in the program for no less than five years, and that these records will include, but not be limited to:

(1) The number of hours of training attended;

(2) Attendance records;

(3) Subject content;

(4) The dates of each training session taken by teachers, instructional aides, and paraprofessionals; and

(5) The name/s of the providers.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234, 99237, 99237.5 and 99240, Education Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3–25–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

3. Renumbering of former section 11982 to section 11981 and renumbering and amendment of former section 11980 to section 11982, including amendment of section heading, section and NOTE, filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11982.5. Local Educational Agencies as a Consortium.

For purposes of the Mathematics and Reading Professional Development Program, a county office of education may coordinate a consortium of school districts that functions as a single LEA.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99231, 99237 and 99237.5, Education Code.

HISTORY

1. Renumbering of former section 11986 to new section 11982.5 filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11983. Instructional Materials.

(a) Instructional materials used by an LEA for courses usually taught in grades kindergarten through 8, including algebra, must be adopted by the SBE unless otherwise authorized by the SBE. Non-adopted instructional materials are occasionally authorized for purchase and use by districts pursuant to the general waiver authority under Education Code sections 33050–33053 or the petition process under the authority of Education Code section 60200(g). Instructional materials used by an LEA for courses usually taught in grades 9 through 12, including algebra II and geometry, must be adopted by the governing board of the LEA.

(b) An LEA participating in the Mathematics and Reading Professional Development Program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in mathematics. An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B).

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99237 and 99237.5, Education Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3–25–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).

3. Amendment of section and NOTE filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11983.5. Definition of Instructional Materials Otherwise Authorized by the California State Board of Education.

(a) As used in Education Code section 99231(c), instructional materials "otherwise authorized" by the SBE include basic instructional materials as defined in Education Code section 60010(a) that have been determined to be in alignment with applicable content standards through a petition approved by the SBE after May 1, 2000, pursuant to Education Code section 60200(g).

(b) In addition, if the instructional materials program used by the LEA is a basic reading/language arts program (RLA), the instructional materials shall be deemed to be "otherwise authorized" provided the LEA certifies all of the following to the CDE prior to receiving the funding:

(1) The instructional materials were purchased by the district prior to the 2002 Reading/Language Arts/English Language Development Adoption (RLA/ELD);

(2) The LEA has in place specially designed instructional materials (component) to address the needs of EL pupils that is comparable to the instructional materials (component) approved and contained in the RLA/ELD programs adopted in January 2002 as approved by the SBE;

(3) The LEA's specially designed component to address the needs of EL pupils has been approved by the CDE for legal and social compliance pursuant to Education Code sections 60040–60048 and the SBE's "Standards for Evaluating Instructional Materials for Social Content" (2000 Edition) which is incorporated by reference; and

(4) The publishers have met all the requirements of Education Code section 60061, as applicable.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99231, Education Code.

HISTORY

1. New section filed 6–28–2002 as an emergency; operative 6–28–2002 (Register 2002, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–28–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–28–2002 order, including amendment of subdivision (b), transmitted to OAL 10–24–2002 and filed 12–10–2002 (Register 2002, No. 50).
3. Amendment of section heading, section and NOTE filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11984. Training Curriculum for the Initial Forty Hours.

Training curriculum for training related to the initial forty hours of instruction described in Education Code section 99237 shall be based on the criteria contained in Education Code section 99237, subdivisions (a) and (b), and the requirements of this section. The owner of the training curriculum shall submit its curriculum to SBE or its designee for approval by the SBE and include the following:

(a) Instructional strategies designed to help all pupils gain mastery of the California academic content standards, with special emphasis on EL pupils and pupils with exceptional needs;

(b) A thorough review of the curriculum framework and academic content standards related to teaching mathematics or reading/language arts;

(c) Current and confirmed scientific research findings related to the instructional practices for mathematics or reading/language arts;

(d) Readings and discussions of other pertinent materials which address the value of the diagnostic nature of standardized tests, the Standardized Testing and Reporting (STAR) system, and the California High School Exit Exam (CAHSEE); and

(e) A thorough review of the adopted standards-based instructional materials program, which emphasizes the following:

(1) The material that is taught during the first six to eight weeks of instruction; and

(2) Instructional strategies that use the universal access and English language development (ELD) components of the program so that teachers will know and understand when and how to use them according to the instructional needs of all students.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237, Education Code.

HISTORY

1. New section filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–25–2002 order transmitted to OAL 7–3–2002 and filed 8–15–2002 (Register 2002, No. 33).
3. Repealer and new section heading and section and amendment of NOTE filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11984.5. Curriculum Review of the Initial Forty Hours.

(a) Each training curriculum for training related to the initial forty hours of instruction described in Education Code section 99237 shall undergo a formal review process before being approved by the SBE. The review shall be based on Education Code section 99237, subdivisions (a)(2), (a)(4), and (b), California Code of Regulations, title 5, section 11984, and subdivision (c) of this section.

(b) The formal review process shall include a review panel consisting of two or more reviewers designated by the SBE and acting under its direction. To be a qualified reviewer, a reviewer shall have knowledge of information related to mathematics or reading, as applicable, including:

- (1) Academic content standards;
- (2) Curriculum frameworks;
- (3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;
- (4) Current and confirmed scientific research; and
- (5) Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system,

the California English Language Development Test (CELDT), and CAHSEE for diagnostic information related to all pupils.

(c) The review panel shall review each training curriculum submission for its ability to produce the following learning outcomes for participants:

(1) Knowledge of grade level mathematics standards or English/language arts standards, including the ability to effectively teach such standards;

(2) Knowledge and understanding of how standards are supported through the curriculum frameworks in regard to differentiating instruction through universal access and teaching instructional strategies related to mathematics or reading/language arts;

(3) Knowledge and understanding of current and confirmed scientific research and various technology resources with regard to teaching mathematics or reading/language arts;

(4) Knowledge and understanding of the components of the STAR program and how student results impact and inform instruction;

(5) Familiarity with key reference materials included in the instructional materials;

(6) Knowledge and understanding of the use of daily lesson guides;

(7) Knowledge and understanding of how to teach all key instructional components;

(8) Familiarity with effective use of additional program support materials for all pupils, including but not limited to accelerated and advanced learners, EL pupils and pupils with exceptional needs; and

(9) Knowledge and understanding of how to analyze assessments included in the instructional materials for more effective instruction.

(d) If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings, the review panel shall recommend approval of the curriculum to the SBE.

(e) If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved.

(f) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a training curriculum upon any of the items referenced in this section or the recommendation of the review panel.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237, Education Code.

HISTORY

1. New section filed 11–19–2007; operative 11–19–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11984.6. Training Providers of the Initial Forty Hours.

(a) Each prospective training provider who seeks to provide training related to the initial forty hours of instruction described in Education Code section 99237 shall submit a written proposal to the SBE or its designee that includes the following:

(1) A complete, annotated, and scripted instructor's training curriculum notebook or manual which includes a timed agenda, all of the overheads or Power Point presentations used by the provider and instructor, and all materials to be included for each grade level or program/course level;

(2) A statement describing whether the training curriculum described in subdivision (a)(1) is either:

(A) Owned by the prospective provider; or

(B) Being used with the express written consent of the party that owns it.

(3) A statement identifying whether the training curriculum described in subdivision (a)(1) has already been approved by the SBE and, if so, the date of the SBE meeting;

(4) A provision that each attendee will be provided with a participant notebook or manual with required readings;

(5) A provision that a complete set of adopted grade level or program or course level materials, including both teacher and student as well as electronic components, will be available at each training session;

(6) A provision that participants will have an opportunity to make up the minimum time requirements of the training by providing the LEA with the provider's web page and/or training calendar, when available;

(7) A description of the training delivery methods, table and room set-up, and classroom structures that support adult learning theory and optimal learning;

(8) A descriptive breakdown of instructional time as follows:

(A) Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components, including universal access components;

(B) Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that ensure all pupils master the academic content standards, with emphasis on EL pupils and pupils with exceptional needs; and

(C) Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning.

(9) A provision that the ratio of participants to instructor(s) will not exceed 35 to 1;

(10) An estimate of the number of authorized instructors to deliver training over the next five years;

(11) A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training;

(12) A description of whether it plans to offer alternative training formats or delivery models to small, remote, or rural LEAs, including the option of webcast training;

(13) Evidence of the prospective provider's experience and qualifications to deliver its training curriculum, which may include evaluation data from past trainings and information demonstrating knowledge of state and federal programs, sanction and intervention processes, special education and EL pupils, and assessment literacy;

(14) Documentation of each lead instructor's experience and qualifications to deliver training;

(15) A description of its instructor selection and training process, including but not limited to how instructors are selected and trained to deliver its curriculum;

(16) A provision that attendance data will be collected and provided to the LEA, including the number of teachers, by credential type, who have received training on its curriculum;

(17) A provision that when major updates or revisions occur with curriculum, the prospective provider will not use the new material until after the material has been submitted for review pursuant to sections 11984 and 11984.5 and approved by the SBE; and

(18) A provision that it has read and will comply with the Mathematics and Reading Professional Development Program regulations found in California Code of Regulations, title 5, sections 11980 through 11985.6, as applicable.

(b) Each prospective training provider's written proposal shall undergo review by a review panel consisting of two or more reviewers designated by the SBE and acting under its direction. The review panel shall evaluate whether the prospective provider's written proposal contains each of the items identified in subdivision (a) and whether the written proposal demonstrates the prospective provider's ability to effectively deliver training. To be a qualified reviewer, a reviewer shall have knowledge of information related to mathematics or reading, as applicable, including:

- (1) Academic content standards;
- (2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed scientific research; and

(5) Assessment linkage to curriculum.

(c) If the review panel determines that the prospective provider's written proposal satisfies the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.

(d) If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.

(e) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a prospective provider upon any of the items listed in this section or the recommendation of the review panel.

(f) A provider approved by the SBE pursuant to this section is only authorized to provide training using the training curriculum it submitted pursuant to subdivision (a).

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99237 and 99240, Education Code.

HISTORY

1. New section filed 11-19-2007; operative 11-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11985. Training Curriculum for English Learner Professional Development.

Training curriculum related to the EL professional development described in Education Code section 99237.5 shall be based on the criteria contained in Education Code section 99237.5, subdivisions (a) and (b), and the requirements of this section. The owner of the training curriculum shall submit its curriculum to SBE or its designee for approval by the SBE and include the following:

(a) Foundational knowledge specifically designed to assist EL pupils to attain a high level of English language proficiency and mastery of the California mathematics and English/language arts academic content standards that emphasizes the following:

(1) Instructional strategies using SBE adopted instructional materials for kindergarten through grade eight, standards-aligned instructional materials for grades nine through twelve, and certified supplemental materials for English learners to assist teachers in understanding when and how to use them to address the instructional needs of all EL pupils;

(2) A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards;

(3) Current and confirmed scientific research related to the instructional practices for EL pupils;

(4) Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum-embedded assessments, and the CAHSEE; and

(5) Essential components of a comprehensive program of ELD that include actively developing all domains of language, addressing various levels of English proficiency and academic English while creating a supportive learning environment for language learning.

(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils that emphasizes the following:

(1) Effective use of the ELD components of the SBE adopted instructional materials for kindergarten through grade eight specifically designed to help teachers of EL pupils understand ELD content;

(2) Current and confirmed scientific research findings related to the instructional practices for second language learning;

(3) A thorough understanding of different levels of English language proficiency and how to plan instruction for each level;

(4) The planning of ELD instruction to effectively and efficiently use ELD standards and certified supplemental materials for English learners as tools for ELD instruction; and

(5) Development of vocabulary and language structures for purposeful oral and written communication that emphasizes structured opportunities for practice.

(c) Reading/language arts and content area instruction to help teachers of EL pupils understand and apply knowledge of linguistic structures to SBE adopted instructional materials for kindergarten through grade eight, standards-aligned instructional materials for grades nine through twelve, and certified supplemental materials for English learners that emphasizes the following:

(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development;

(2) A thorough review and analysis of linguistic features;

(3) Contrastive analysis that leads to understanding the transfer of skills and concepts from one language to another;

(4) Text and lesson analysis for language and content demands; and

(5) Analysis of second language markers in oral and written language production to inform instruction.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237.5, Education Code.

HISTORY

1. New section filed 3-25-2002 as an emergency; operative 3-25-2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-25-2002 order transmitted to OAL 7-3-2002 and filed 8-15-2002 (Register 2002, No. 33).

3. Designation of existing section as subsection (a), new subsections (b)-(e) and amendment of NOTE filed 11-4-2004; operative 11-4-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 45).

4. Renumbering of former section 11985 to new section 11981.5 and new section 11985 filed 11-19-2007; operative 11-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11985.5. Curriculum Review of English Learner Professional Development.

(a) Each training curriculum for training pursuant to Education Code section 99327.5 shall undergo a formal review process before being approved by the SBE. The review shall be based on Education Code section 99237.5, subdivisions (a)(4) and (b), California Code of Regulations, title 5, section 11985, and subdivision (c) of this section.

(b) The formal review process shall include a review panel consisting of two or more reviewers designated by the SBE and acting under its direction. To be a qualified reviewer, a reviewer shall have experience teaching EL pupils and have knowledge of information related to mathematics or reading, as applicable, including:

(1) Academic content standards and ELD standards;

(2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed scientific research and current and confirmed scientific research related to EL pupils;

(5) Certified supplemental materials for English learners; and

(6) Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils.

(c) The review panel shall review each training curriculum submission for its ability to produce the following learning outcomes for participants:

(1) Knowledge and understanding of the language and content demands required for EL pupils to access grade level appropriate academic content standards and ELD standards;

(2) Knowledge and understanding of how standards are supported through the curriculum frameworks in regard to differentiating instruction

through universal access related to mathematics or reading/language arts for EL pupils;

(3) Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and ELD, including how to apply this research to classroom practice in order to increase student learning and language acquisition;

(4) Knowledge and understanding of how to analyze and use data from multiple measures, including the components of the STAR program, CELDT, and curriculum-embedded assessments and how student results impact and inform instruction for EL pupils;

(5) Knowledge and understanding of how to plan and teach ELD and monitor student progress at each level of English proficiency;

(6) Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve;

(7) Demonstrate the ability to effectively and efficiently teach content standards using ELD standards and methodology to scaffold;

(8) Knowledge and understanding of oral language development, vocabulary development, and writing development;

(9) Knowledge and understanding of effective comprehension and instructional strategies to teach content through text and lesson analysis that support EL pupils in language development; and

(10) Knowledge and understanding of early intervention techniques for pupils experiencing difficulty.

(d) If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings, the review panel shall recommend approval of the curriculum to the SBE.

(e) If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved.

(f) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a training curriculum upon any of the items referenced in this section or the recommendation of the review panel.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237.5, Education Code.

HISTORY

1. New section filed 11-19-2007; operative 11-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11985.6. Training Providers of English Learner Professional Development.

(a) Each prospective training provider who seeks to provide training pursuant to Education Code section 99237.5 shall submit a written proposal to the SBE or its designee that includes the following:

(1) A complete, annotated, and scripted instructor's training curriculum notebook or manual which includes a timed agenda, all of the overheads or Power Point presentations used by the provider and instructor, and all materials to be included for each grade level, grade span, or program/course level;

(2) A statement describing whether the training curriculum described in subdivision (a)(1) is either:

(A) Owned by the prospective provider; or

(B) Being used with the express written consent of the party that owns it.

(3) A statement identifying whether the training curriculum described in subdivision (a)(1) has already been approved by the SBE and, if so, the date of the SBE meeting;

(4) A provision that each attendee will be provided with a participant notebook or manual with required readings;

(5) A provision that participants will have an opportunity to make up the minimum time requirements of the training by providing the LEA with the provider's web page and/or training calendar, when available;

(6) A description of the training delivery methods, table and room set-up, and classroom structures that support adult learning theory and optimal learning;

(7) A description of how the training design will equip participants with the necessary skills and knowledge to be fully prepared to use their standards-based SBE adopted instructional materials or standards-aligned instructional materials to teach EL pupils at their academic and language proficiency levels;

(8) A descriptive breakdown of instructional time as follows:

(A) Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction;

(B) Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards, ELD standards, and academic language proficiency; and

(C) Thirty percent for practice, planning instruction based upon data and student work, small and large group discussion, and other participant activities to reinforce learning.

(9) A provision that the ratio of participants to instructor(s) does not exceed 35 to 1;

(10) An estimate of the number of authorized instructors to deliver training over the next five years;

(11) A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training;

(12) A description of whether it plans to offer alternative training formats or delivery models to small, remote, or rural LEAs, including the option of webcast training;

(13) Evidence of the prospective provider's experience and qualifications to deliver its training curriculum, which may include:

(A) Evaluation data from past trainings;

(B) Information demonstrating knowledge of state and federal programs, including sanction and intervention processes, and how they support and relate to EL academic achievement;

(C) Knowledge of standards-based SBE adopted instructional materials or standards-aligned instructional materials; and

(D) Knowledge of certified supplemental materials for English learners adopted pursuant to the Budget Act of 2004 and pursuant to Chapter 79 of the Statutes of 2006.

(14) Documentation of each lead instructor's experience and qualifications to deliver EL training;

(15) A description of its instructor selection and training process, including but not limited to how instructors are selected and trained to deliver its curriculum;

(16) A provision that attendance data will be collected and provided to the LEA, including the number of teachers, by credential type, who have received training on its curriculum;

(17) A provision that when major updates or revisions occur with curriculum, the prospective provider will not use the new materials until after the material has been submitted for review pursuant to sections 11985 and 11985.5 and approved by the SBE; and

(18) A provision that it has read and will comply with the Mathematics and Reading Professional Development Program regulations found in California Code of Regulations, title 5, sections 11980 through 11985.6, as applicable.

(b) Each prospective training provider's written proposal shall undergo review by a review panel consisting of two or more reviewers designated by the SBE and acting under its direction. The review panel shall evaluate whether the prospective provider's written proposal contains

each of the items identified in subdivision (a) and whether the written proposal demonstrates the prospective provider's ability to effectively deliver training. To be a qualified reviewer, a reviewer shall have experience teaching EL pupils and have knowledge and information related to mathematics or reading, as applicable, including:

(1) Academic content standards and ELD standards;

(2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed scientific research and current and confirmed scientific research related to EL pupils;

(5) Certified supplemental materials for English learners; and

(6) Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils.

(c) If the review panel determines that the prospective provider's written proposal satisfies the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.

(d) If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.

(e) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a prospective provider upon any of the items listed in this section or the recommendation of the review panel.

(f) A provider approved by the SBE pursuant to this section is only authorized to provide training using the training curriculum it submitted pursuant to subdivision (a).

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99237.5 and 99240, Education Code.

HISTORY

1. New section filed 11-19-2007; operative 11-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

§ 11986. Eligible Local Educational Agencies. [Renumbered]

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 44579.5, 99231 and 99237(e), Education Code.

HISTORY

1. New section filed 3-25-2002 as an emergency; operative 3-25-2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-23-2002 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-25-2002 order transmitted to OAL 7-3-2002 and filed 8-15-2002 (Register 2002, No. 33).

3. Renumbering of former section 11986 to new section 11982.5 filed 11-19-2007; operative 11-19-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 47).

Subchapter 21.5. School Community Violence Prevention Program

§ 11987. Purpose.

(a) These regulations fulfill a mandate of Education Code section 41513, which requires the State Superintendent of Public Instruction (SSPI) and the Attorney General to adopt regulations to implement the School Safety Consolidated Competitive Grant program established by sections 41510 through 41514 of the Education Code. This program consists of two competitive grant programs, which are hereinafter referred to as the School Community Violence Prevention (SCVP) Grant program and the School Safety and Violence Prevention Training Grant Program. The regulations shall specify application submission rules, criteria for scoring applications and awarding grants, allowable/non-allowable

uses of grant funds, annual reporting requirements for grant recipients, and the manner in which grant recipients will be reimbursed for program expenditures.

(b) The program shall be jointly administered by the SSPI and the Attorney General's Office, through the School Law Enforcement Partnership (S/LEP), as authorized by Education Code section 32262.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New subchapter 21.5 (sections 11987–11987.7) and section filed 1–19–2006 as an emergency; operative 1–19–2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–19–2006 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 21.5 (sections 11987–11987.7) and section refiled 5–15–2006 as an emergency; operative 5–15–2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–12–2006 or emergency language will be repealed by operation of law on the following day.
3. New subchapter 21.5 (sections 11987–11987.7) and section refiled 10–16–2006 as an emergency; operative 10–16–2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–2007 or emergency language will be repealed by operation of law on the following day.
4. New subchapter 21.5 (sections 11987–11987.7) and section refiled 2–16–2007 as an emergency; operative 2–16–2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–18–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2–16–2007 order, including amendment of section and NOTE, transmitted to OAL 6–18–2007 and filed 7–31–2007 (Register 2007, No. 31).

§ 11987.1. Eligibility to Apply for SCVP Grant Funds and Grant Application Requirements.

(a) For purposes of this program, Local Education Agencies (LEAs) are school districts, county offices of education or consortia thereof. Only LEAs serving students in any of grades kindergarten through twelve are eligible to apply for the SCVP grant funds.

(b) School sites which are receiving services from a School Community Policing Partnership (SCPP) grant may not receive SCVP grant funds until the SCPP grant period has ended.

(c) A school site that has previously received an SCVP grant shall not be eligible to receive funds from another SCVP grant until five years after the end of the previous SCVP grant period.

(d) Prospective applicants shall submit a request to apply to the S/LEP by November 1 of each year. Attached to the request to apply shall be a copy, from each proposed program site, of that portion of the comprehensive school safety plan which is required by Education Code sections 32282(a)(1) and (a)(2)(H), and by the first paragraph of Education Code section 32282(a)(2). The safety plan shall have been updated and approved during the time period specified in Education Code section 32286. If these requirements are not met, the LEA shall not be eligible to apply for funds.

(e) LEAs wishing to receive funds from the SCVP grant program shall submit applications for a maximum of \$500,000. Applications will be annual and will be submitted by January 15 of each year. The applications shall include the following elements:

(1) A description of the collaborative process used to develop and administer the proposed SCVP project. The description shall include a list of all participants in the collaborative group (such as school and district staff, parents, students, law enforcement agencies and community organizations) which helped plan the project, and which will participate in on-going project operations.

(2) Letters of agreement or memoranda of understanding between the LEA and any law enforcement agency and/or community organization(s) which will take an active part in carrying out or administering the proposed project. The letter(s) must describe how the partner agency and/or organization(s) will participate in the project.

(3) An application that is individualized and specific to the school site or sites that are in need of the proposed funding.

(4) A current school safety needs analysis conducted by the collaborative group. Data from the California Healthy Kids Survey (CHKS) and/or the California Student Survey (CSS) and from the Uniform Management

Information and Reporting System (UMIRS) must be included in the needs analysis.

(5) A description of the current violence prevention efforts at the site or sites, including a description of how other violence prevention funds are used to meet the identified needs. The proposed violence prevention plan shall address needs which are not being met by the violence prevention activities funded by existing fund sources.

(6) A proposed plan that consists of a primary prevention program; or a combination of a primary prevention program, supplemental prevention activities, and/or intervention activities; which address the problems identified in the needs analysis.

(7) A description of the manner in which the project staff will track process and outcome measures to determine if the project is progressing as planned and on schedule, and a description of the manner in which the project collaborative will review this information and use it to keep the project on track.

(8) A section describing how the proposed violence prevention program will be continued after the end of the grant period.

(9) A proposed project plan that identifies a project coordinator position responsible for overall coordination of project activities, for documenting project activities, and for providing required reports. The amount of staff time budgeted for the coordinator position shall be justified in the grant application.

(10) A line item budget and an explanatory narrative. Each budget item shall be explained with a computation based upon the unit cost of the purchased item. The budget shall include funds for the required independent audits of the use of funds. The budget shall also contain funds for attendance at training and networking conferences sponsored by the S/LEP.

(11) An assurance that independent audits will be conducted of the grant recipient's use of the SCVP funds. The purpose of the audits will be to determine if the funds have been used as required by law and regulation and as stated in the grant recipient's application.

(12) Applicant LEAs shall download and print the "General Assurances" (revised June, 2007) and "Drug Free Workplace" (revised June, 2007) forms from the California Department of Education (CDE) "funding forms" web page (<http://www.cde.ca.gov/fg/fo/fm>). These documents, which are incorporated by reference, shall be submitted with the application.

(f) Applications shall meet the following technical requirements:

(1) An original SCVP grant application and four copies shall be submitted.

(2) The original application shall include all original signatures in blue ink.

(3) A letter of agreement or memorandum of understanding is considered current if dated after the immediately preceding June 1.

(4) The application shall be in 12-point or greater Arial font, single-spaced, with one-inch minimum margins. Applicants may use 10-point Arial font on tables, charts, or boxes. The S/LEP will screen applications that do not comply with these requirements. If smaller font sizes or margins are used in an application, the S/LEP shall compute the number of excess characters added to the application as a result, and draw a red line through the extra characters. Application reviewers shall not be allowed to use the red-lined characters in the application review.

(5) The application shall be submitted on standard white, 8 1/2 by 11-inch paper. The narrative section shall not exceed 20 pages. If the narrative section exceeds 20 pages, the S/LEP will draw a red line through the extra pages and will not allow application raters to look at those pages.

(6) The application shall be stapled or clipped together for submission.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1–19–2006 as an emergency; operative 1–19–2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–19–2006 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 5–15–2006 as an emergency; operative 5–15–2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–12–2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10–16–2006 as an emergency; operative 10–16–2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2–16–2007 as an emergency; operative 2–16–2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–18–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2–16–2007 order, including amendment of section heading, section and NOTE, transmitted to OAL 6–18–2007 and filed 7–31–2007 (Register 2007, No. 31).

§ 11987.2. Reviewing SCVP Grant Applications.

(a) Each application will be screened by the S/LEP to ensure that it contains all required elements.

(b) Each application passing the screening process shall be reviewed by a panel of raters selected by the S/LEP. Each application will be evaluated for compliance with applicable statutes and these regulations, and for the degree to which the application provides:

(1) a demonstration of high levels of involvement of school staff, law enforcement, students, parents, and community organizations in developing and implementing the SCVP project.

(2) a comprehensive and clear needs analysis completed by the collaborative group that makes a compelling case for the need for violence prevention services.

(3) a proposed violence prevention program that: is likely to be effective in addressing the identified needs; is closely coordinated with current violence prevention efforts at the site; contains a plan for tracking the implementation of the project and keeping the project on track; and contains clear and convincing plans for the involvement of the collaborative group in the ongoing operation of the project.

(4) a detailed budget that reasonably reflects the proposed project.

(c) Applications shall be ranked in accordance with the evaluation described in subdivision (b) and shall be funded in accordance with their rank.

(d) A grant applicant that chooses to appeal the results of the grant application process shall file a written appeal to the S/LEP within five working days of the announcement of the results. Protests shall be limited to the grounds that the S/LEP failed to correctly apply the process for reviewing the applications as specified in these regulations. The S/LEP shall review the appeal and determine if the S/LEP failed to correctly apply the grant application and review process. The decision of the S/LEP shall be the final administrative action afforded the appellant.

(e) Grant awards shall be limited to the amount for which the LEA applied. If the applicant does not justify all proposed budget items, the grant amount shall be reduced by the amount of the unjustified budget items.

(f) In the event that the total amount of all funded grants exceeds the available funds, the S/LEP shall reduce all funded grants by an identical percentage, so that the total funds awarded equals the available funds.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1–19–2006 as an emergency; operative 1–19–2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–19–2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–15–2006 as an emergency; operative 5–15–2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–12–2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10–16–2006 as an emergency; operative 10–16–2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2–16–2007 as an emergency; operative 2–16–2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–18–2007 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 2–16–2007 order, including amendment of section heading, section and NOTE, transmitted to OAL 6–18–2007 and filed 7–31–2007 (Register 2007, No. 31).

§ 11987.3. Awarding SCVP Grants.

(a) The grant period shall be a maximum of five years.

(b) Annually, the S/LEP shall review school and community safety data including crime statistics, CHKS data, CSS data, and UMIRS data, and shall consult with school safety program practitioners to identify the highest priority school safety needs. If the review determines that the existing SCVP funding process is not awarding funds for the highest priority school safety needs, the S/LEP shall set aside funds for award to applicants that submit proposals meeting those needs.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1–19–2006 as an emergency; operative 1–19–2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–19–2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–15–2006 as an emergency; operative 5–15–2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–12–2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10–16–2006 as an emergency; operative 10–16–2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2–16–2007 as an emergency; operative 2–16–2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–18–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2–16–2007 order, including amendment of section heading, section and NOTE, transmitted to OAL 6–18–2007 and filed 7–31–2007 (Register 2007, No. 31).

§ 11987.4. Allowable/Non-Allowable Uses of SCVP Grant Funds.

(a) Funding for administrative or supervisory personnel, other than the project coordinator position(s), shall not be approved. Allowable budget items are for personnel who provide direct services to students, as well as for associated training, services, program materials, and supplies.

(b) Grant funds shall not be used for facilities costs, utilities, phones or phone systems, purchase of vehicles, out-of-state travel, or purchase of ammunition or purchase of firearms.

(c) Grant funds shall be used in accordance with law and these regulations, and as proposed in the approved application or a budget revision approved by the S/LEP.

(d) Without prior approval from the S/LEP, budget adjustments may be made of no more than \$500, or ten percent of the line item from which the funds are being moved, whichever is greater.

(e) The funds made available for the SCVP Program shall be used to supplement, not supplant, existing school safety programs.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1–19–2006 as an emergency; operative 1–19–2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–19–2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–15–2006 as an emergency; operative 5–15–2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–12–2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10–16–2006 as an emergency; operative 10–16–2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2–16–2007 as an emergency; operative 2–16–2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–18–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2–16–2007 order, including amendment of section heading, section and NOTE, transmitted to OAL 6–18–2007 and filed 7–31–2007 (Register 2007, No. 31).

§ 11987.5. Reporting Requirements for the SCVP Program.

(a) Grant recipients shall provide an implementation report to the S/LEP in the first year of project implementation. The report shall contain a detailed description of planned project activities for that year. The detailed description shall include a project implementation table listing, for each planned activity, the person responsible for implementation; the schedule of services; the number of units, hours, lessons, or services planned; and the number of students, family members, and/or staff to be served.

(b) Grant recipients shall also report annually to the S/LEP. The report shall contain a progress report on the project described in the grant application, a description of program and collaborative activities, and a description of services planned for the next year. The detailed description of planned services shall include a project implementation table listing, for each planned activity, the person responsible for implementation; the schedule of services; the number of units, hours, lessons, or services planned; and the number of students, family members, and/or staff to be served. The report shall also contain a self-evaluation completed according to the document entitled "School Community Violence Prevention Program (SCVP) Grant Recipient Self-Evaluation Plan" (revised June 2007), which is incorporated by reference.

(c) Reports from the independent auditor reviewing use of the LEA's grant funds shall be submitted to the S/LEP at the end of grant years two and four.

(d) Grant recipients shall maintain accounting records and other evidence pertaining to costs incurred during the grant award period and thereafter for five full years from the date of the final payment of grant funds. The S/LEP must be permitted to audit, review, and inspect the activities, books, documents, papers, and records relating to the grant during the progress of the work and for five years following final allocation of funds.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1-19-2006 as an emergency; operative 1-19-2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-19-2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-15-2006 as an emergency; operative 5-15-2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-12-2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10-16-2006 as an emergency; operative 10-16-2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2-16-2007 as an emergency; operative 2-16-2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-18-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-16-2007 order, including amendment of section heading, section and NOTE, transmitted to OAL 6-18-2007 and filed 7-31-2007 (Register 2007, No. 31).

§ 11987.6. Reimbursement of Program Expenditures.

(a) The S/LEP shall issue an advance of not more than \$50,000 to each grant recipient upon the award of the grant. The remaining funds shall be issued to grant recipients as reimbursement for authorized expenditures, upon receipt of an invoice from the accounting office of the LEA. Invoices shall be submitted quarterly to the S/LEP staff. Invoices for payment are subject to review and approval by S/LEP staff. Reimbursements shall not be processed if annual reporting requirements have not been met. Final invoices shall be submitted within four months of the end of the grant period.

(b) If adequate progress in implementation of the grant program is not demonstrated via annual reports, site visits, or other means, the S/LEP may terminate the grant award and provide no further grant funding.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1-19-2006 as an emergency; operative 1-19-2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-19-2006 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-15-2006 as an emergency; operative 5-15-2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-12-2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10-16-2006 as an emergency; operative 10-16-2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2-16-2007 as an emergency; operative 2-16-2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-18-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-16-2007 order, including amendment of section and NOTE, transmitted to OAL 6-18-2007 and filed 7-31-2007 (Register 2007, No. 31).

§ 11987.7. School Safety and Violence Prevention Training Grant.

(a) The S/LEP shall award a maximum of \$400,000 per year of the annual SCVP appropriation for one grant to a county office of education for the purpose of providing statewide and regional training in school safety and violence prevention methods. The grant period shall be a maximum of five years in duration.

(b) The S/LEP shall issue an advance of not more than \$50,000 to the grant recipient upon the award of the grant. The remaining funds shall be issued to the grant recipient as reimbursement for authorized expenditures, upon receipt of an invoice from the accounting office of the grant recipient. Invoices shall be submitted quarterly to the S/LEP staff. Invoices for payment are subject to review and approval by the S/LEP staff.

(c) Applications for the School Safety and Violence Prevention Training Grant shall be submitted no later than March 1 of a year in which the grant will be awarded. Applications for grant funds shall contain the following elements:

(1) The application shall describe the applicant's ability and experience to coordinate a statewide training program, including arranging for the delivery of training throughout the 11 established CDE regional training areas.

(2) The application shall contain a comprehensive plan for administering the training grant that includes, but is not limited to, how the applicant will: schedule and arrange for delivery of a specified number of regional trainings; secure experienced trainers; reimburse the trainers for travel expenses; sponsor and present an orientation and update meeting for the 11 regional training coordinators; conduct a focus group of trainers, coordinators, and S/LEP staff to revise and update the training materials; purchase necessary training materials; evaluate the training; coordinate an annual meeting among S/LEP staff and the 11 LEA regional training coordinators; and maintain regular contact with S/LEP state staff.

(3) The application shall contain a line item budget, along with an explanatory narrative.

(4) The application shall contain an assurance that an independent audit will be conducted in years two and four of the grant recipient's use of the funds. The purpose of the audit shall be to determine if the funds have been used as required by the law and regulation and as stated in the grant recipient's application.

(5) Applicants shall download and print the "General Assurances" (revised June, 2007) and "Drug Free Workplace" (revised June, 2007) forms from the CDE's "funding forms" web page (<http://www.cde.ca.gov/fg/fo/fm>). These documents, which are incorporated by reference, shall be submitted with the application.

(6) Applications shall meet the following technical requirements:

(A) An original grant application and four copies shall be submitted.
(B) The original application shall include all original signatures in blue ink.

(C) The application shall be in 12-point or greater Arial font, single-spaced, with one-inch minimum margins. If smaller font sizes or margins are used in an application, the S/LEP shall compute the number of

excess characters added to the application as a result, and draw a red line through the extra characters. Application reviewers shall not be allowed to use the red-lined characters in the application review.

(D) The application shall be submitted on standard white, 8 1/2 X 11-inch paper. The narrative section shall not exceed 10 pages. If the narrative exceeds 10 pages, the S/LEP will draw a red line through the extra pages and will not allow application raters to look at those pages.

(E) Applications shall be stapled or clipped together for submission.

(d) Each application shall be screened by the S/LEP to ensure that it contains all required elements. Each application passing the screening process shall be evaluated for compliance with applicable statutes and these regulations, and for the degree to which the application provides:

(1) a clear demonstration of the applicant's extensive experience in developing, implementing, and coordinating regional training projects throughout the state.

(2) a plan of administering the grant that contains enough specific detail to assure that the applicant is capable of successfully implementing a training program that includes: recruitment and training of knowledgeable trainers; revision and update of training materials; the scheduling of trainings and obtaining of training facilities; the evaluation of the training program; the administration of the financial aspects of the program including reimbursing trainers; and the presentation of annual conferences for staff development and for updating of the training program.

(3) a detailed budget that reasonably reflects the proposed project.

(e) Applications will be ranked in accordance with the evaluation described in subdivision (d) and shall be funded in accordance with their rank.

(f) A grant applicant that chooses to appeal the results of the grant application process shall file a written appeal to the S/LEP within five work-

[The next page is 168.3.]

ing days of the announcement of the results. Protests shall be limited to the grounds that the S/LEP failed to correctly apply the process for reviewing the applications as specified in these regulations. The S/LEP shall review the appeal and determine if the S/LEP failed to correctly apply the process for reviewing applications. The decision of the S/LEP shall be the final administrative action afforded the appellant.

(g) Training grant funds may be used for: Salaries and benefits for the statewide coordinator, regional training coordinators, and clerical support personnel; travel costs for regional trainings and for statewide meetings and trainings for the statewide and regional training coordinators and trainers; training materials, miscellaneous supplies directly related to the trainings; services and operating costs, including rental of training rooms; indirect cost not to exceed the indirect cost rate annually assigned to the grant recipient by CDE; and audit costs. Training grant funds may not be used for: Out-of-state travel; acquisition, rents, leases and utilities for facilities (except rentals of training rooms); or purchases of vehicles.

(h) Grant funds shall be used in accordance with law and these regulations and as proposed in the approved application or a budget revision approved by the S/LEP.

(i) Without prior approval from the S/LEP, budget adjustments shall be made of no more than \$500, or ten percent of the line item from which the funds are being moved, whichever is greater.

(j) The grant recipient shall submit an annual report containing a progress report on the implementation of the program described in the grant application, a description of program activities, and an evaluation of the effectiveness of the training sessions which have been provided. If adequate progress in implementation of the grant program is not demonstrated via annual reports, site visits, or other means, the S/LEP may terminate the grant award and provide no further grant funding.

(k) Grant recipients shall maintain accounting records and other evidence pertaining to costs incurred during the grant award period and thereafter for five full years from the date of the final payment of grant funds. The S/LEP shall be permitted to audit, review, and inspect the activities, books, documents, papers, and records relating to the grant during the progress of the work and for five years following final allocation of funds.

(l) Funds shall be issued to the grant recipient as reimbursement for authorized expenditures, upon receipt of an invoice from the accounting office of the grantee. Invoices for payment are subject to review and approval by S/LEP staff. Reimbursements shall not be processed if annual reporting requirements have not been met. Final invoices shall be submitted within four months of the end of the grant period.

NOTE: Authority cited: Sections 41510 and 41513, Education Code. Reference: Sections 41510 and 41512, Education Code.

HISTORY

1. New section filed 1-19-2006 as an emergency; operative 1-19-2006 (Register 2006, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-19-2006 or emergency language will be repealed by operation of law on the following day.
2. New section filed 5-15-2006 as an emergency; operative 5-15-2006 (Register 2006, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-12-2006 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 10-16-2006 as an emergency; operative 10-16-2006 (Register 2006, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-2007 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 2-16-2007 as an emergency; operative 2-16-2007 (Register 2007, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-18-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 2-16-2007 order, including amendment of section and NOTE, transmitted to OAL 6-18-2007 and filed 7-31-2007 (Register 2007, No. 31).

Subchapter 22. Reading First Program

§ 11990. Funding Allocation.

NOTE: Authority cited: Sections 12001, 12032 and 33031, Education Code. Reference: 20 USC 6361 et seq. (Title I, Part B, federal No Child Left Behind Act),

California's Approved Reading First Plan as approved by the United States Department of Education on August 23, 2002; Chapter 730, Statutes of 2002; and Section 51700, Education Code.

HISTORY

1. New subchapter 22 (section 11990) and section filed 4-21-2003 as an emergency; operative 4-21-2003 (Register 2003, No. 17). A Certificate of Compliance must be transmitted to OAL by 8-19-2003 or emergency language will be repealed by operation of law on the following day.
2. Repealer of subchapter 22 and section by operation of Government Code section 11346.1(g) (Register 2004, No. 32).

Subchapter 22.5. Reading First Achievement Index/Definition of Significant Progress

§ 11991. Reading First Achievement Index.

(a) The California Reading First Plan, approved by the United States Department of Education on August 23, 2002, requires the development of criteria to determine progress for Reading First local educational agencies (LEAs). To comply with this requirement, the Reading First Achievement Index (RFAI) was created. The RFAI is an annually calculated numerical index of a school's reading achievement in kindergarten through grade three, and comprises weighted test results from the following assessments:

(1) The Standardized Testing and Reporting Program (STAR), California Standards Test (CST) in English language arts, for grades two and three. Each of these assessments is weighted as 30 percent of a school's RFAI, for a total of 60 percent;

(2) The STAR norm-referenced subtests in reading, language arts, and spelling for grade three. The reading subtest is weighted as 6 percent, the language arts subtest as 2 percent, and the spelling subtest as 2 percent of a school's RFAI, for a total of 10 percent; and

(3) The Reading First End-of-Year Reading Assessments in either English or Spanish for kindergarten through grade three. The kindergarten and grade three assessments are each weighted as 5 percent of a school's RFAI, and grade one and two assessments are each weighted as 10 percent of a school's RFAI, for a total of 30 percent.

(b) If a school does not have test results as specified in section 11991(a), due to either not having classrooms in one or more of the primary grade levels, kindergarten through grade three, or having less than 11 students in any grade level, the LEA's mean values on those missing data elements will be used to calculate the school's RFAI.

(c) If a school does not submit test results for any of the assessments specified in section 11991(a), a value of zero will be used for that data element to calculate the school's RFAI.

(d) If a school does not have at least 45 percent of the RFAI weights specified in section 11991(a), an RFAI will not be calculated for that school.

NOTE: Authority cited: Sections 12001, 12032 and 33031, Education Code. Reference: Section 51700, Education Code; and 20 USC 6361 (Title I, Part B, federal No Child Left Behind Act).

HISTORY

1. New subchapter 22.5 (sections 11991-11991.2) and section filed 10-23-2006; operative 11-22-2006 (Register 2006, No. 43).

§ 11991.1. Defining Significant Progress/Continuance of Reading First Funding.

(a) In order to continue to receive Reading First Funding, a local educational agency (LEA) must achieve "significant progress" which is defined as having at least half of the LEA's Reading First schools, which have an RFAI, achieve an RFAI that is above one standard deviation below the mean on the RFAI for the LEA's cohort.

(b) A cohort is made up of all the LEAs that were funded in the same round of subgrant competition.

(c) Cohort One is defined as all of the LEAs in the round of subgrant competition that was funded commencing November 13, 2002.

(d) For Cohort One, if a LEA fails to make significant progress after the fifth year of implementation, the California Department of Education

(CDE) shall notify the LEA that it will not be funded for the next year of implementation.

(e) For all other cohorts, if a LEA fails to make significant progress after the fourth year of implementation, CDE shall notify the LEA that it will not be funded for the next year of implementation.

NOTE: Authority cited: Sections 12001, 12032 and 33031, Education Code. Reference: Section 51700, Education Code; and 20 USC 6362 (Title I, Part B, federal No Child Left Behind Act).

HISTORY

1. New section filed 10–23–2006; operative 11–22–2006 (Register 2006, No. 43).

§ 11991.2. Appeal Process.

(a) For Cohort One, if an LEA fails to make significant progress after the fifth year of implementation, or for all other cohorts, if an LEA fails to make significant progress after the fourth year of implementation, CDE shall notify them in writing that they will not be funded for the next year of implementation (defunding determination). Such notice shall also include information regarding the LEA's ability to appeal the defunding determination.

(b) If an LEA chooses to appeal the defunding determination, the following process shall be adhered to:

(1) Within 30 days of receipt of the defunding determination notification, the LEA shall file a written request for appeal with the CDE. The request shall include an explanation of the basis for the appeal and any supporting documentation.

(2) Upon receipt of an LEA appeal, the CDE shall have 30 days to investigate the appeal. CDE shall have the right to request the LEA to provide additional or clarifying information. CDE shall also have the right to reasonably extend the investigation period for up to an additional 30 days, if in its opinion, more time is required to complete a thorough review of the appeal and supporting documents.

(3) Upon completion of its investigation, CDE shall make a recommendation to the SBE to either uphold or deny the LEA's appeal, including the reasons for such recommendation. CDE shall also notify the LEA that its investigation is complete and that the recommendation has been forwarded to the SBE.

(4) The SBE shall consider the recommendation at the earliest regularly scheduled SBE meeting at which the appeal can be placed on the Agenda.

(c) An LEA involved in the appeal process may continue to offer the Reading First program while the appeal is being considered and a final determination achieved.

NOTE: Authority cited: Sections 12001, 12032 and 33031, Education Code. Reference: Section 51700, Education Code; and 20 USC 6362 (Title I, Part B, federal No Child Left Behind Act).

HISTORY

1. New section filed 10–23–2006; operative 11–22–2006 (Register 2006, No. 43).

Subchapter 23. Defining Persistently Dangerous Public Elementary and Secondary Schools

§ 11992. Provisions.

(a) A California public elementary or secondary school is "persistently dangerous" if, in each of three consecutive fiscal years, one of the following criteria has been met:

(1) For a school of fewer than 300 enrolled students, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than three.

(2) For a larger school, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than one per 100 enrolled students or a fraction thereof.

(b) Applicable violations include:

(1) Assault or battery upon a school employee (Education Code section 48915(a)(5));

(2) Brandishing a knife (Education Code section 48915(c)(2));

(3) Causing serious physical injury to another person, except in self-defense (Education Code section 48915(a)(1));

(4) Hate violence (Education Code section 48900.3);

(5) Possessing, selling or furnishing a firearm (Education Code section 48915(c)(1));

(6) Possession of an explosive (Education Code section 48915(c)(5));

(7) Robbery or extortion (Education Code section 48915(a)(4));

(8) Selling a controlled substance (Education Code section 48915(c)(3)); and

(9) Sexual assault or sexual battery (Education Code section 48915(c)(4)).

(c) In instances where a student committed a violation enumerated in subsection (b) for which expulsion proceedings would have been instituted, but is no longer a student and therefore cannot be expelled, that violation must be reported in the total number of incidents and expulsions referenced in subsection (a).

NOTE: Authority cited: Section 33031, Education Code; Reference: Sections 48900.3, 48915(a)(1), 48915(a)(4), 48915(a)(5), 48915(c)(1), 48915(c)(2), 48915(c)(3), 48915(c)(4) and 48915(c)(5), Education Code; Public Law 107–110, Title IX, Part E, Subpart 2, Section 9532; and 20 USC Section 7912.

HISTORY

1. New subchapter 23 (sections 11992–11994) and section filed 6–23–2005; operative 7–23–2005 (Register 2005, No. 25).

§ 11993. Definitions.

(a) "Assault" means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another (Penal Code section 240).

(b) "Battery" means any willful and unlawful use of force or violence upon the person of another (Penal Code section 242).

(c) "Controlled substance" means all controlled substances listed in chapter 2 of division 10 of the Health and Safety Code (commencing with section 11053).

(d) "Firearm" means handgun, rifle, shotgun or other type of firearm (section 921(a)(3) of title 18, United States Code).

(e) "Firearm violation" means unlawfully bringing or possessing a firearm, as defined in subsection (d), on school grounds or during a school-sponsored activity.

(f) "Explosive" means a destructive device (title 18, section 921(a)(4), United States Code).

(g) "Expulsion" means an expulsion ordered by the local educational agency's governing board regardless of whether it is suspended, modified, or stipulated.

(h) "Extortion" means acts described in Penal Code sections 71, 518, and 519.

(i) "Fiscal year" means the period of July 1 through June 30 (Education Code section 37200).

(j) "Hate violence" means any act punishable under Penal Code section 422.6.

(k) An "incident" of a firearm violation by non-student(s) for the purpose of section 11992 is an event on school grounds during school hours, or at a school-sponsored activity, involving a person or persons not enrolled in the school who unlawfully brings or possesses a handgun, rifle, shotgun, or other type of firearm. An event shall be counted as a single incident when it happens at the same time in the same location, regardless of the number of non-students involved. School site administrators or designees are responsible for documenting the incident and reporting the incident to the local educational agency (LEA) staff who are responsible for collecting expulsion data.

(l) "Knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(m) "Non-student" means a person, regardless of age, not enrolled in the school or program reporting the violation.

(n) "On school grounds" means the immediate area surrounding the school including, but not limited to, the school building, the gymnasium, athletic fields, and the site parking lots.

(o) "Robbery" means acts described in Penal Code sections 211 and 212.

(p) A "school sponsored activity" means any event on the grounds of the school district supervised by district staff at which students are present, including transportation to and from school.

(q) "Serious physical injury" means serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (this is the same definition as described in "serious bodily injury" in Penal Code section 243(f)(4)).

(r) "Sexual assault" means acts defined in Penal Code sections 261, 266(c), 286, 288a, 288(a-c), and 289.

(s) "Sexual battery" means acts defined in Penal Code section 243.4.

(t) "Enrolled students", for the purpose of subsections 11992(a)(1) and 11992(a)(2), means students included in the most current California Basic Educational Data System (CBEDS) report for the school.

(u) "During school hours" means from thirty minutes before the initial school bell to thirty minutes after the closing school bell.

NOTE: Authority cited: Section 33031, Education Code; Reference: Sections 37200 and 48915(g), Education Code; Sections 11053-11058, Health and Safety Code; and Sections 71, 211, 212, 240, 242, 243(f)(4), 243.4, 261, 266(c), 286, 288a, 288(a-c), 289, 422.6, 518 and 519, Penal Code.

HISTORY

1. New section filed 6-23-2005; operative 7-23-2005 (Register 2005, No. 25).

§ 11994. Data Collection.

Local educational agencies (LEAs) will submit to the California Department of Education (CDE) the number of incidents of non-student firearm violations and student expulsions specified in section 11992 above for determining persistently dangerous schools. The CDE will use the information collected to determine if a school site meets the criteria in this subchapter. If an LEA contests the CDE's determination that one or more of its schools is persistently dangerous, the LEA may appeal that determination to the State Board of Education based on incorrect data or circumstances that caused the school to be identified as persistently dangerous, but actually increased student and teacher safety at the school.

NOTE: Authority cited: Section 33031, Education Code; Reference: Public Law 107-110, Title IX, Part E, Subpart 2, Section 9532; and 20 USC Section 7912.

HISTORY

1. New section filed 6-23-2005; operative 7-23-2005 (Register 2005, No. 25).

Subchapter 24. American Indian Education Centers

Article 1. General Provisions

§ 11996. Purpose.

These regulations set forth guidelines for the selection and administration of California American Indian Education Centers.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

HISTORY

1. New subchapter 24, article 1 (sections 11996-11996.11) and section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.1. Definitions.

For purposes of the American Indian Education Center program, the following definitions shall apply:

(a) "Adult" means a person over the age of 18, residing in California, and who does not attend public school in California in kindergarten or grades 1 through 12, inclusive.

(b) "AIEC" means American Indian Education Center.

(c) "AIEOC" means American Indian Education Oversight Committee.

(d) "CDE" means California Department of Education.

(e) "Existing Center" means a center that is funded under Education Code sections 33370-33383 in the most recently funded year prior to or including the year that a new AIEC Request For Applications from CDE is released.

(f) "Grant year" means the period from October 1 through September 30 of the subsequent year.

(g) "Guardian" means a person who is not the mother or father but who has custody of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(h) "Incorporated American Indian Associations" means a California American Indian governed community-based organization that has received and maintains its non-profit status from the federal government and has current articles of incorporation on file with the state of California. It also means any tribally incorporated non-profit that either maintains separate non-profit status with the federal government or uses the incorporating tribal federal designation (P.L. 93-638).

(i) "Parent" means the mother or father of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(j) "Priority" means that an existing center shall receive funding as long as the center submits an application that meets the minimum criteria for funding and the center has completed and submitted all required reports for the current funding cycle.

(k) "Pupil" means an American Indian boy or girl who is enrolled in, and attends school in California in kindergarten or grades 1 through 12, inclusive.

(l) "RFA" means Request for Application.

(m) "SSPI" means the State Superintendent of Public Instruction.

(n) "Service" means activities provided to promote the academic and cultural achievement of American Indian pupils as defined in Education Code section 33381.

(o) "Tribal Group" means any federally recognized tribal government including terminated California tribes.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.2. American Indian Education Oversight Committee.

(a) The purpose of the AIEOC is to provide input and advice to the SSPI on all aspects of American Indian education programs established by the state. Members of the AIEOC shall possess proven knowledge of current educational policies relating to, and issues faced by, tribes and American Indian communities in California.

(b) The AIEOC members shall serve at the pleasure of the SSPI.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 6–4–2007 order transmitted to OAL 9–11–2007 and filed 10–24–2007 (Register 2007, No. 43).

§ 11996.3. Grant Application.

(a) For each five year funding cycle, the CDE shall release a competitive American Indian Education grant application no later than July 15. Tribal Groups or Incorporated American Indian Associations wishing to receive funds from CDE's AIEC grant program shall submit to CDE an application proposing projects responding to all requirements of law and these regulations. Original applications for 2007–08 grant year must be received by CDE 42 days from the release date of the application. All subsequent applications must be received at CDE 60 days from the release date of the application. Applications shall contain the following:

(1) Organizational chart of AIEC funded program and staff and the relationship to parent organization;

(2) Agency description and service location(s);

(3) History of cultural and educational service to the American Indian community;

(4) Demonstrated organizational capability and commitment to manage grants;

(5) Demographic profile of the proposed AIEC service area;

(6) Description of the target population including tribe (if applicable), school, community;

(7) The results of a "Comprehensive Needs Assessment," which must include:

(A) the number of American Indian pupils enrolled at each school site, their grade levels, school or Local Education Agency's state academic performance measures for the American Indian sub-group, and free and reduced lunch count;

(B) the number of pupils to be directly served; and

(C) the needs and concerns identified by community members, collaborative partners, school staff, parents/guardians and pupils

(8) A comprehensive plan that includes:

(A) Measurable outcome objectives to meet identified needs by service category listed in Education Code section 33381.

(B) For each activity proposed to achieve the objectives stated above, applicants will provide the following:

1. description of activity;

2. total number of American Indian pupils served;

3. total number of others served;

4. number of American Indian pupils in each activity session;

5. number of others in each activity session;

6. number of hours per session; and

7. number of scheduled sessions.

(C) An implementation timeline for activities; and,

(D) A description of the manner in which culturally responsive methodologies will be incorporated into program services.

(9) Documentation of, and plans for, continuing coordination and collaboration with local school districts, local tribes, other community organizations and resources.

(10) Signed CDE – General Assurances (February 2007), American Indian Education Center Documentation Requirements (July 2007), Drug-Free Workplace (August 2005), and American Indian Education Center Commercial Tobacco-Free Certification Tobacco-Use Prevention Education (May 2007), incorporated by reference.

(11) An annual budget, including narrative.

(12) The narrative for an AIEC grant application must be limited to 20 single-sided, 8–1/2 by 11 inch pages using 12 pt Arial font, with 1 inch margins.

(b) Applications shall be disqualified from consideration if they do not:

(1) Include all required sections of the proposal;

(2) Include the original signature of the Board Chairperson, Tribal Chairperson or authorized representative;

(3) Comply with the requirement that proposals be received by CDE by the due dates specified in the RFA.

(c) For each year after year one of the five-year funding cycle, agencies shall submit to CDE a continuing application that contains the following:

(1) Degree to which the objectives were met; modifications to the objectives, activities, target population, and/or implementation timeline.

(2) An annual budget including narrative.

(3) Signed CDE – General Assurances (February 2007), American Indian Education Center Documentation Requirements (July 2007), Drug-Free Workplace (August 2005), and American Indian Education Center Commercial Tobacco-Free Certification Tobacco-Use Prevention Education (May 2007), incorporated by reference.

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370, 33381, 33383 and 62000.14, Education Code.

HISTORY

1. New section filed 6–4–2007 as an emergency; operative 6–4–2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12–3–2007 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 6–4–2007 order, including amendment of subsections (a)(10) and (c)(3), transmitted to OAL 9–11–2007 and filed 10–24–2007 (Register 2007, No. 43).

§ 11996.4. Selection of Applications for Grant Awards.

(a) Each complete application that meets the deadline for submission shall be reviewed by a panel of reviewers selected by CDE. The CDE shall establish criteria for selection of the reviewers and train the reviewers to score grant applications consistently.

(b) Applications shall be reviewed and assessed according to the degree to which the application fulfills the requirements of applicable statutes and these regulations, including:

(1) The extent to which the application is designed to promote the culture and the academic achievement of American Indian pupils as demonstrated by the alignment between identified needs and the proposed program.

(2) The extent to which the application is designed to achieve measurable outcomes that address the needs identified in the comprehensive needs assessment.

(3) The extent to which the applicant's actual and/or proposed organization structure, history of service to the American Indian community, and demonstrated organizational capacity are indicative of the ability to assure successful program implementation.

(4) The type and intensity of services to be provided to the targeted population, and the number of pupils and other participants to be served.

(5) The potential impact of the proposed service plan on pupils, their families, and other organizations in the region as evidenced by the implementation of promising practices or proven strategies.

(6) The completeness of the description of the proposed service area, including the identification of currently existing services and service deficits.

(7) The degree to which the AIEC will collaborate with the existing service-agencies as evidenced by collaborative agreements that clearly detail the responsibility of collaborating entities.

(c) All applications will be ranked according to their assessed score. Grants will be awarded on the basis of the applicant's rank and the applicant's funding priority as defined in section 11996.1(j).

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370 and 33383, Education Code.

HISTORY

1. New section filed 6–4–2007 as an emergency; operative 6–4–2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12–3–2007 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 6–4–2007 order transmitted to OAL 9–11–2007 and filed 10–24–2007 (Register 2007, No. 43).

§ 11996.5. Grant Recipient Funding.

(a) The CDE shall determine the amount of grant funds awarded to each grant recipient based upon an analysis of the recipient's application for funds. The factors considered in the analysis shall include, but shall not be limited to, the following:

(1) The comprehensive needs assessment included in the application.

(2) The scope of the project including the activities described in the applicant's comprehensive plan and the type and intensity of services proposed for the program's major activities.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.6. Appeals of Grant Awards.

Applicants who wish to appeal a grant award decision shall submit a written appeal to the CDE within five working days of the posted decision for grant year 2007-08 and within seven working days in subsequent years. Appeals shall be limited to the grounds that the CDE failed to correctly apply the standards for reviewing the applications or the grant award process as specified in the regulations. The appealing applicant shall file a full and complete written appeal, including the issue(s) in dispute, the legal authority or other basis for the appeal position, and the remedy sought. CDE shall not consider incomplete appeals, late appeals or appeals that only refute the readers' comments given for technical assistance.

Any decision to revise the original score or fund the application shall be documented in writing. The CDE's decision is the final administrative action afforded the appeal.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.7. Reporting Requirements.

(a) Each grant recipient shall provide an annual report to the CDE. The report shall be due 60 days from the end of the grant period, and shall contain the following information:

- (1) number of pupils enrolled by grade level or age;
- (2) number of pupils served by grade level or age and service type and frequency;
- (3) a description of how the center meets the continued educational and cultural needs of the community that it serves;
- (4) a description of the collaborative activities conducted during the year;
- (5) progress made in meeting its stated objectives, including applicable program objectives as stated in Education Code section 33381;
- (6) AIEC program enrolled pupil aggregated performance on state academic assessment measures;
- (7) recommendations for revisions to the project and its budget based upon an analysis of the data by the grant recipient.

(b) Each grant recipient shall submit annually a report containing the results of an independent fiscal audit of expenditures. This report is due on April 30. A one time 60 day extension shall be granted if a request for the extension is made prior to April 30 and demonstrates good cause for such an extension. Grant funds may be used to pay for the preparation of these reports.

(c) The AIEC's shall submit quarterly fiscal expenditure reports. The expenditure reports shall be received by the CDE within six weeks of the end of each quarter. The reports shall be signed by the AIEC accounting officer, and will have two components:

- (1) an AIEC summary report by CDE budget line item,
 - (2) a general ledger which shows the quarter's expenditures in detail.
- (d) Failure to submit the annual report, quarterly fiscal reports, or results of the fiscal audit of expenditures by the due dates will result in a

delay of the second payment for the current year and all payments for subsequent grant years until the reports are submitted.

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370 and 62000.14, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order, including amendment of subsection (b), transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.8. Fiscal and Program Monitoring.

(a) The reports received from the AIEC shall be received by the posted due dates and shall be assessed for completeness, accuracy; for use of funds as authorized in law and regulation; and for use of funds as described in the application of the AIEC. The AIEC shall correct any omissions or inaccuracies in the reports and correct any unauthorized expenditures by charging the unauthorized expenditure to a non-AIEC grant fund source.

(b) Program monitoring shall be conducted through CDE review of quarterly and annual reports, written communication, and on site reviews. When problems in implementing program services or achieving program objectives are encountered, the CDE shall schedule meetings, site visits, and/or phone calls to provide training and/or technical assistance to the grant recipient.

(c) The CDE shall provide the AIEC with a written report of any findings, including recommendations, corrective actions and a timeline for the corrective actions, if necessary.

(d) If the CDE determines that the AIEC has not met the terms of the approved application or the law or these regulations, then the AIEC shall be notified by certified mail of any such failure to comply with the terms of the application, laws or regulations. This notice shall specify the time line for corrective action. After issuance of the notice the CDE has the option to amend the time line for corrective action. If the grant recipient does not take action to bring the program into compliance, the CDE shall terminate program funding.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.9. Grant Amount Revisions.

(a) The CDE may reduce grant amounts based on the following conditions:

(1) An across the board reduction will be made in the event of an allocation reduction in the state budget. Each AIEC's grant amount will be reduced proportionately to the reduction in the Budget Act.

(2) If any services budgeted in an AIEC's application or approved budget revision are not provided within the grant year or first quarter of the subsequent grant year and if a grant extension is not provided pursuant to section 11996.10, the CDE shall reduce the grant award to the AIEC accordingly.

(b) When supplemental funds are made available through the Budget Act, the CDE shall determine whether such funding supports establishment of additional center programs. If so, a new request for applications shall be issued and the requirements listed in section 11996.03 shall be enforced.

(c) When additional funds are made available through the Budget Act for Cost of Living Adjustments (COLA), the CDE will augment each funded AIEC's proportionately. In order to receive the augmentation each AIEC must submit a Program and Budget Amendment. The Program and Budget Amendment must be received by the CDE 45 days from release and must contain:

(1) A description of how the additional funds will support the existing program.

(2) If the agency plans to use the additional funds to add or revise objectives, then the agency must include Modifications to Objectives including a revised timeline.

(3) A detailed budget for the COLA including narrative.

(d) If the agency does not submit the required forms by the due date, then the agency forfeits the COLA.

(e) If for any reason grant funding awarded to an AIEC is returned to CDE or never allocated to an AIEC, the AIEOC shall provide input and advice to the SSPI on the use of the funds. Options for use of the funds shall include, but are not limited to, proportional allocation to existing grantees and allocation via competitive application.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order, including new subsections (b)-(d) and subsection relettering, transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.10. Grant Extension.

No later than June 30 of the grant year, the CDE will determine if extensions for the use of grant funds will be made available for use in the first quarter of the subsequent grant year. Funds from a grant year must be used to provide services in the first quarter of the subsequent grant year. The center must submit to the CDE a plan and line-item budget for use of the funds in the subsequent grant year. The plan must demonstrate that the funds would be used to provide supplemental services which would not otherwise be funded from the grant funds of the new year.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33383, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

§ 11996.11. Budget Application Revisions.

(a) Project budget revisions of more than 10 percent of the line item shall be approved in writing by the CDE prior to implementation. Expenditures for any grant, activity, or type of equipment not listed in the application budget or approved revision must be approved in advance by CDE.

(b) Revisions to an approved application may be submitted anytime during the annual grant period, so long as the revision is approved prior to implementation of the revision.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

HISTORY

1. New section filed 6-4-2007 as an emergency; operative 6-4-2007 (Register 2007, No. 23). A Certificate of Compliance must be transmitted to OAL by 12-3-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-4-2007 order transmitted to OAL 9-11-2007 and filed 10-24-2007 (Register 2007, No. 43).

Chapter 12. Compensatory Education

Subchapter 1. General Provisions

Article 1. General Provisions

§ 12000. Definitions.

"Director" means Director of Compensatory Education.

HISTORY

1. New Chap. 1 (§§ 12000 and 12001) filed 1-14-70; effective thirtieth day thereafter (Register 70, No. 3).

§ 12001. Copies of Guidelines.

HISTORY

1. Repealer filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).

Subchapter 2. Migrant Education

Article 1. Program Requirements

§ 12010. Types of Programs That May Be Supported Through the Use of Migrant Education Funds.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761 and 2762; 34 CFR 204.1, 204.50, 204.51 and 204.65; and Sections 54440, 54442, 54443, 54443.1 and 54444, Education Code.

HISTORY

1. New Chapter 2 (Articles 1-4, Sections 12010-12026, not consecutive) filed 1-31-83; effective thirtieth day thereafter (Register 83, No. 6). For history of former Chapter 2, see Register 74, No. 20.
2. Repealer filed 5-10-88; operative 6-9-88 (Register 88, No. 20).

§ 12011. Monitoring and Enforcement of Regulations.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761, 2814; 34 CFR 200.21, 200.150, 200.151, No. 12—January 19, 1981; 34 CFR 204.10(a), 204.61; and Sections 54442 and 54443.1(g), Education Code.

HISTORY

1. New section filed 7-8-83; effective thirtieth day thereafter (Register 83, No. 28).
2. Repealer filed 5-10-88; operative 6-9-88 (Register 88, No. 20).

§ 12012. Composition of a Parent Advisory Council.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2735, 2761 and 2762; 34 CFR 204.55; and Section 54444.2, Education Code.

HISTORY

1. Repealer filed 5-10-88; operative 6-9-88 (Register 88, No. 20).

Article 2. Program Eligibility

§ 12013. Determining and Documenting Student Eligibility.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761, 2762, 2763; 34 CFR 204.12, 204.24, 204.54, 204.56; and Sections 54441, 54441.5, 54443 and 54444, Education Code.

HISTORY

1. New Article 2 (Section 12013) filed 7-8-83; effective thirtieth day thereafter (Register 83, No. 28).
2. Repealer filed 5-10-88; operative 6-9-88 (Register 88, No. 20).

Article 3. Complaint Procedures

§ 12015. Where to File the Complaint.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2815; 34 CFR 200.182, No. 12—January 19, 1981; and Section 54442, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12016. When Direct Involvement by the State Department of Education (SDE) Is Necessary.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2738 and 2815; 34 CFR 200.182 and 200.186, No. 12—January 19, 1981; and Sections 54442 and 54443.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12017. Procedures Which the Operating Agency Must Adhere to When Resolving a Complaint.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2738 and 2815; 34 CFR 200.183, 200.184 and 200.185, No. 12—January 19, 1981; and Section 54442, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12018. Procedures Which the SDE Must Adhere to When Resolving a Complaint.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2815; 34 CFR 200.186 and 200.187; and Section 54442, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

Article 4. Fiscal Allocation and Service Delivery Structure

§ 12019. Criteria for Designation as a Migrant Service Center.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2731, 2734(d), 2761, 2762 and 3142; 34 CFR 204.50(d)(2) and 204.51; and Sections 54440, 54442, 54443.1, 54444 and 54444.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12020. What the Service Agreement Shall Contain.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2734, 2761 and 2762; and Section 54444.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12021. Functions and Responsibilities To Be Carried Out by the Lead Agency of a Migrant Service Center.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761, 2762 and 3142; 34 CFR 204.30; and Education Code Sections 54442, 54444.1 and 54444.4.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12022. How a Migrant Service Center May Apply to Conduct a Migrant Education Project.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 1232(e), 2761, 2762 and 3142; 34 CFR 204.30, 204.32 and 204.41; Sections 54441(e), 54444.1, 54444.3 and 54444.4, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12023. How a Migrant Service Center May Revise Its Three-Year Project Application.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761 and 2762; 34 CFR 204.50; and Section 54444.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12024. How Migrant Education Funds Allocated to a School District May Be Reallocated by a Migrant Service Center.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761 and 2762; 34 CFR 204.50; and Section 54444.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12025. Procedure for Granting an Award to a Migrant Service Center.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2761, 2762; 34 CFR 204.40; and Section 54444.1, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

§ 12026. Definitions Applicable to the State Migrant Education Program.

NOTE: Authority cited: Sections 33031 and 54445, Education Code. Reference: 20 USC 2854; and Section 54441, Education Code.

HISTORY

1. Repealer filed 5–10–88; operative 6–9–88 (Register 88, No. 20).

Subchapter 4. Preschool Educational Programs

HISTORY

1. Repealer of Chapter 4 (Sections 12020–12037) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 70, No. 3; Register 72, No. 30 and Register 74, No. 20.

Subchapter 5. Special Teacher Employment Programs (K–6)

(Education Code Sections 54480–54487)

Article 1. General Provisions

§ 12050. Definitions.

(a) “Concentrated Area of Poverty and Social Tension.”

“A concentrated area of poverty and social tension in the state,” as used in Article 5 (beginning with Section 54480) of Chapter 4 of Part 29 of the Education Code means a census tract in an urban area as urban area is described in the 1960 federal decennial census served by an elementary school or schools with respect to which tract both of the following circumstances exist:

(1) The census tract was served by an elementary school or schools that on October 1, 1968, had a high proportion of pupils taking the October 1968 sixth grade state reading achievement test whose score on that test fell at or below the first (lowest) quartile score.

(2) The 1960 decennial census shows with respect to the tract both of the following:

(A) At least 20% of the families reported a 1959 income of less than \$3,000.

(B) A high percentage of unemployment of those in the labor force as reported for 1959.

[The next page is 169.]

(b) "Public School Population."

For the purpose of allocating funds available for programs under Education Code Section 54480, public school population means the October 1968 enrollment reported for the elementary schools serving a most concentrated area of poverty and social tension. When a qualified elementary school has been closed subsequent to October 1, 1965, the services provided to the children of that qualified school shall be made available in the school or schools designated to serve the area of the formerly qualified elementary school.

NOTE: Authority cited for Chapter 5: Section 54483, Education Code.

HISTORY

1. New Chapter 5 (§§ 12050 through 12052, 12060, 12061, 12065 through 12070) filed 1-14-70; effective thirtieth day thereafter (Register 70, No. 3).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12051. Identification of the Most Concentrated Areas.

The "most concentrated areas of poverty and social tension" or a "designated area of disadvantage" as used in Chapter 4 of Part 31 of the Education Code shall be either of the following:

(a) The area served by elementary schools identified and determined by ranking the elementary schools serving those census tracts that are concentrated areas of poverty and social tension as defined in Section 12050 (a) in accordance with a severity score based upon the sum of the following:

(1) The percentage of the pupils enrolled in the school who took the October 1968 sixth grade state reading achievement test whose score was at or below the first quartile;

(2) The percentage of families (at least 20%) in the census tract or tracts served in whole or in part by the school whose 1959 income reported to the census was under \$3,000 and;

(3) Twice the percentage of unemployment reported by the 1960 decennial census for the census tract or tracts served in whole or in part by the school; or

(b) The Director may designate as "a most concentrated area of poverty and social tension" the attendance area of an elementary school that has been identified and approved as a target area school for purposes of Title I, ESEA program services in a school district in which there are schools declared eligible in accord with the scores computed under subparagraphs (1), (2), and (3) of subsection (a). The selection of such school attendance areas shall be based primarily on the criteria of high concentration of children from low income and AFDC families.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12052. Priority of Projects.

Districts shall give priority to projects or programs that provide for innovative methods for utilization of teachers and classroom space and for the evaluation of those methods.

§ 12060. Application for Funds.

HISTORY

1. Repealer filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).

§ 12061. Content of Application for Grants.

HISTORY

1. Repealer filed 5-17-74; effective thirtieth day thereafter (Register 74, No. 20).

Article 3. Teacher Aides**§ 12065. Qualifications.**

A school district, in evaluating the qualifications of a prospective teacher aide to be employed pursuant to Education Code Section 54482, shall place primary consideration on such person's basic knowledge and skills, personality factors, and his relationship to the community in which he is to serve.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12066. Health Examination.

Each person employed as a teachers' aide shall have on file with the district a certificate defined in Education Code Section 49406 that indicates freedom of such person from active tuberculosis.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12067. Duties Under Supervision of Classroom Teacher.

A teacher aide shall be under the immediate supervision and direction of a certificated classroom teacher, with a reasonable physical proximity between the aide's work station and the teacher's work station, so that there is ready communication between teacher and aide and ease of supervision of the aide. Under such supervision, the teacher aide may engage in activities that include tutoring of individuals or very small groups of pupils as directed by the teacher.

§ 12068. Duties Not Under Direct Supervision of Classroom Teacher.

A teacher aide may perform assigned duties while not under the direct supervision of the teacher for a period not in excess of 25 per cent of the time for which he is engaged in the performance of his duties during any school day. The duties which a teacher aide may perform while not under the direct supervision of a teacher shall not include independent control or supervision of pupils except during designated noninstructional sessions. While not under the direct supervision of a teacher, a teacher aide may prepare materials as directed by the teacher, provide personal assistance to designated pupils in the event of an emergency, and visit pupils' homes when directed by the teacher in accordance with school district policy, and perform other duties as assigned by the teacher.

§ 12069. Relation to Instructional Program.

The activities of teacher aides shall be directly related to the instructional program and to reinforcement of the teachers' effectiveness in carrying on the instructional program. Teacher aides shall not be assigned duties that make them unavailable to assist teachers in instructional programs.

§ 12070. Assignment on Team Basis.

Teacher aides may be assigned on a team or cooperative basis to assist in providing remedial instruction or in improving the quality of the regular instructional program.

Subchapter 6. Demonstration Programs in Intensive Instruction (Reading and Mathematics) for Low Achieving Pupils in Grade 7, 8 or 9

(Education Code sections 58600-58608)

Article 1. General Provisions**§ 12090. Definitions.**

(a) "Exemplary program" as used in Chapter 4 of Part 31 of the Education Code and in these regulations means the administration of an innovative, creative program over and above the district's regular program that can serve as a model for future programs.

(b) "Model Demonstration Program" as used in Article 2 of Chapter 4 of Part 31 of the Education Code and in these regulations means an exemplary project using research data and experimentation to focus on the conduct of intensive instruction in reading and mathematics.

NOTE: Authority cited for Chapter 6: Sections 54462 and 58605, Education Code.

HISTORY

1. New Chapter 6 (§§ 12090 through 12095, 12097, 12098, 12099) filed 1-14-70; effective thirtieth day thereafter (Register 70, No. 3).

2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Applications

§ 12091. Application for Funds.

An applicant for funds to conduct programs under this chapter shall:

- Be identified as a "most concentrated area of poverty and social tension" described in Section 12051 or a "designated area of disadvantage" described in Education Code Section 58600, and
- Meet the requirements of subsections (a) through (e) of Sections 12060 and 12061.

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12092. Application for Approval of Demonstration Program.

An application by the governing board of a school district to establish and operate a program under Chapter 4 of Part 31 of the Education Code shall be made in accordance with the instructions provided on forms furnished by the Director and shall contain a detailed description and analysis of the program including the manner in which the standards and criteria established by this article are to be complied with, and such other information as specified by the Director.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12093. Programs Operated by Public or Private Agencies.

When a program is to be conducted by a school district through a public or private agency, foundation, or corporation, the district shall submit with its application a statement containing evidence that the agency, foundation, or corporation is competent to conduct the program.

§ 12094. Program Content.

A demonstration program shall be designed to create an atmosphere or climate for learning, to motivate the pupil for further learning and to insure educational attainment or success in reading and mathematics. A demonstration program shall have the following specific goals:

- Development of creative programs to serve as models or guides for improved instruction generally and for compensatory education specifically.
- Experimentation with new curricula and methodology designed to meet specific needs of low achieving pupils.
- Analysis and assessment of the abilities and needs of low achieving pupils.
- Providing of individualized instruction.
- Employment of a variety of approaches to systematic, sequential skills development.
- Corrective programs for pupils performing one year or more below grade expectancy level.

§ 12095. Evaluation Committee. Preceding Approval.

When a demonstration program is to be conducted by a school district through contract with a public or private agency, foundation, or corporation, the agency, foundation, or corporation, and its competence and ability to conduct the program, shall be evaluated by an evaluation committee which shall consist of four members appointed by the Director as follows:

- One member known for his interest and leadership in industrial training.
- One member eminent in the field of education.
- One member who is an established authority in teaching reading.
- One member who is an established authority in teaching mathematics.

The committee shall confer with, advise and make recommendations to, the Director with respect to its evaluations and findings.

Article 3. Personnel in Program

§ 12097. Teaching and Supervisory Personnel.

A person serving as a teacher or supervisor in a demonstration program who is employed by a public or private agency, foundation, or corporation shall possess a valid California certification document unless this requirement has been waived pursuant to Education Code Section 58603.

When this requirement has been so waived:

- A person serving as a teacher shall be experienced and competent in teaching reading or mathematics.
- A person serving as supervisor shall be knowledgeable in the current practices in reading and mathematics.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 12098. Assistants.

Any nonteaching aide, nonteaching assistant or teacher aide employed to assist in a demonstration program pursuant to statutory authorization (including Education Code Section 58603), shall perform such functions, in accordance with such statutory authorization, as shall be determined by the district. An application submitted pursuant to Section 12092 shall indicate the number of assistants or aides, their qualifications and duties.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 4. Evaluation of Program

§ 12099. Program Evaluation.

A district or other entity operating a demonstration program shall periodically evaluate the program which shall include an evaluation of pupil achievement.

Subchapter 7. New Careers in Education Programs

(Education Code Sections 44520-44534)

Article 1. General Provisions

§ 13000. Definitions.

(a) Program—Program means the activities conducted by the State Department of Education, local school districts, and cooperating institutions of higher education for the purpose of carrying out the provisions of Article 5 of Chapter 3, Part 25, Sections 44520-44534.

(b) Intern—Intern means a person who has met eligibility requirements, been selected, and is receiving support from the Program toward the completion of collegiate preparation for and attainment of an elementary school teaching credential.

(c) Institution of Higher Education—An institution of higher education (I.H.E.) is a university or a college which provides courses which will enable a person to meet the requirements of a California teaching credential. The university means any location where classes of that university are operated or offered.

(d) Preservice Program—A preservice program is collaborative guidance and training offered by the cooperating I.H.E. and the school district.

(e) Team Leader—A team leader is an experienced teacher who has demonstrated the capability in teaching educationally disadvantaged pupils and is responsible to direct, aid, coordinate and supervise interns and

who is released, at least in part time, from other duties in order to perform this coordination and supervision.

(f) Director of Compensatory Education—The Director of Compensatory Education is the Assistant Superintendent of Public Instruction for Compensatory Education.

(g) Tuition Scholarship—Means program and local district funds paid to the intern or on the intern's behalf to cover normal expenses of attending an Institution of Higher Education.

(h) Fellowship Expense Grant—Means program and local district funds paid for the subsistence of interns and their eligible dependents while actively enrolled in the Program.

NOTE: Authority cited for Chapter 7: Sections 33031 and 44532, Education Code.

HISTORY

1. New Chapter 7 (Article 1, Sections 13000–13017) filed 1–16–76; effective thirtieth day thereafter (Register 76, No. 3).
2. Amendment of subsection (a) and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13001. Basic Requirements of the Program.

The basic purpose of the program is to carefully select, from among persons whose background and experience makes them familiar with the life problems of low-income and minority students, individuals who have completed 60 semester course units or the equivalent number of quarter units of lower division college work, who otherwise could not be expected to complete collegiate education, and to facilitate their becoming credentialed elementary school teachers. The program incorporates academic study with on-the-job training. For this reason, local school districts are the eligible applicant agencies and maintain control over the nonacademic learning opportunities of the interns.

§ 13002. Intern Financial Support.

The following items relate to the support of a New Careers in Education intern:

(a) Fellowship Expense Grants—Interns shall receive Fellowship Expense Grants of \$75 per week throughout the months of the year in which they are enrolled as full-time college students. The support will continue to be provided between college semesters or quarters, and between the academic year and college summer sessions. During periods when interns are not attending college classes, the local school district may assign responsibilities related to the education of disadvantaged children. Interns may be provided the same vacations as local school district employees without loss of support.

(b) Fellowship Expense Grant Supplements—Fellowship expense grant supplements of \$15 per week for each legal dependent of the intern may be added to the basic fellowship expense grant.

(c) Tuition Scholarship—Tuition scholarships include but are not limited to those charges by an institution of higher education for attending classes and necessary related costs including books, materials, fees, and transportation costs.

(d) Eligibility for Income Supplements—It is the intent of the State Board of Education, in adopting these regulations, to define the internship and the scholarship and fellowship assistance provided by this program in such ways as may protect the eligibility of interns for income supplements, health benefits, or other services which would be available to them if they were not New Careers in Education interns.

§ 13003. Duties of Team Leader.

A team leader shall devote at least one-half time to the following duties:

- (a) Direct, aid, and coordinate intern's activities.
- (b) Supervise interns and their internship activities.
- (c) Participate in screening candidates for consideration for internships.
- (d) Meet with intern individually to provide guidance and counsel.
- (e) Plan and conduct or arrange for other persons to conduct inservice and preservice training for interns.
- (f) Arrange for interns to be aware of meetings for professional growth.

(g) Collect data necessary for reporting on the progress of interns.

(h) Arrange for supervising teachers and check to make certain that their participation is helping to implement the objectives of the program for the benefit of the interns.

(i) Assist interns to develop skills and other abilities necessary for effective teaching.

(j) Supervise at least six but not more than 10 interns.

(k) Assist in the teaching process in the participating school.

(l) Participate in facilitating the teacher education program for the interns.

§ 13004. Compensation of Team Leaders.

Team leaders shall receive compensation at a rate the equivalent to that paid other experienced teachers in the school district with similar professional preparation and responsibilities.

§ 13005. Coordination with the Compensatory Education Program.

In keeping with the basic purpose of the New Careers in Education program, coordination with the school district staff who work in the area of compensatory education is required.

§ 13006. Funds for Student Support.

At least 70 percent of the New Careers in Education funds allocated to a school district must be expended for the direct support of interns through tuition scholarships and fellowship expense grants.

§ 13007. Intern Eligibility.

All interns must meet the following requirements:

(a) At least 60 units of college credit have been acquired, and it is predicted that the student will qualify for the credential within two calendar years.

(b) The individual is to have lived or worked extensively in areas of high concentration of low-income families or is a member of a minority or racial ethnic group who has lived or worked extensively in low-income areas.

(c) Must have a high teaching potential and meet qualifications for the issuance of a credential.

(d) Shows reasonable evidence that the intern will teach for at least two years following the earning of a credential in a school in a low-income area.

(e) Is registered for at least twelve semester units per semester or the equivalent number of units in an institution operating on a quarterly basis.

§ 13008. Selection of Interns.

Interns will be selected on the basis of careful review of applications showing the qualifications of all interested individuals including teacher aides. The selection must carry out the district's classified personnel hiring policies.

§ 13009. Applications for Funding.

Applications are to be submitted to the Director of Compensatory Education (Assistant Superintendent of Public Instruction or Compensatory Education) with these conditions and assurances:

(a) The local education agency must give assurance that the school district intends to employ successful graduates.

(b) The intern shall give reasonable evidence that he will teach for at least two years following the training program in a school located in a low-income area.

(c) The collaborating institution of higher education must plan a program with the local educational agency and jointly select team leaders and interns.

(d) The local educational agency serves as funding agency.

(e) The educational programs for interns will be competency-based with objectives identified and evaluation procedures specified.

(f) Community representatives have an advisory role in planning, implementing and evaluating the program.

(g) An annual report will be submitted in the form prescribed by the State Department of Education.

- (h) Assurances that auditable records will be on file.
- (i) Assurance of compliance with the California Administrative Code and the California Education Code.
- (j) Assurance that ethnic balance has been considered in selecting interns.
- (k) Assurance that data is provided on compensation allowances and training costs.
- (l) A budget is provided indicating specific amounts to be allocated under each object of expenditure.

§ 13010. Eliminating an Intern from a Program.

When representatives of the school district or of the collaborating institution of higher education have concerns about the retention in the program of a particular intern, a review committee consisting of the team leader, a school district administrator, a cooperating classroom teacher, and a faculty member from the collaborating institution of higher education shall be convened to provide counsel and guidance for the intern. An intern may be dropped from the program after due process.

§ 13011. District Responsibilities.

The district is responsible for the following:

- (a) Pay at least 10 percent, but not more than 90 percent of the salaries, fringe benefits, tuition scholarships, and fellowship expense grants to be paid the team leaders and the interns.
- (b) Provision of support services to team leaders and interns on the same basis by which services are provided to other staff members in the district.

§ 13012. Services Provided by Institutions of Higher Education.

In selecting collaborating institutions of higher education, the school district shall obtain assurances that any services provided to other students in the university will be provided to the interns.

§ 13013. Maintenance of Effort.

The new Careers in Education Act funds are intended to supplement and not supplant other federal, state, or local funds. Applicants for this program are required to maintain, in each school in which the New Careers interns and team leaders are employed and trained, a level of expenditure that is at least equal to the level of expenditure that would be maintained if New Careers in Education funds were not being expended.

§ 13014. Program and Reporting.

Each funded agency must submit a year-end report to the State Department of Education in a form to be provided by the department. Annual reports are due in Sacramento by the close of business, August 31 of each year.

§ 13015. Fiscal and Technical Requirements.

District and county superintendents maintaining programs shall develop budget accounts records, claims for reimbursement, and reports in accordance with the California School Accounting Manual. Auditable records shall be developed by the school districts or county superintendents to document compliance with regulations.

§ 13016. Compliance with Nondiscrimination Requirements.

Each application shall include assurance that the applicant agencies have complied with Title VI, Civil Rights Act of 1964, and Title IX, Education Act of 1972, Section 34, Title 5, of the California Administrative Code, and the California Fair Employment Practices Act, as amended.

§ 13017. Waivers.

Applicant districts may apply to the State Board of Education for waivers from provisions of the California Education Code under provisions of Education Code Sections 52021 with respect to early childhood education schools and Section 58603 with respect to ESEA Title I schools if the granting of such waivers (which are not inconsistent with federal statutes or regulations) will aid such applicant district in estab-

lishment and operation of early childhood education programs or compensatory education programs for low-income children.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 9. Professional Development and Program Improvement Programs

Article 1. General Provisions

§ 13025. Definitions.

(a) Center—Center means a professional development and program improvement center which is an elementary school designated as such upon application of a school district to the State Board of Education. It is a school in which a program under either Title I of the Elementary and Secondary Education Act of 1965, the Miller–Unruh Basic Reading Act (Chapter 2 commencing with Section 54100 of Part 29), the Educationally Disadvantaged Youth Programs (Chapter 1 commencing with Section 54000 of Part 29), or the Early Childhood Education Program (Chapter 6 commencing with Section 52000 of Part 28) is in operation.

(b) Satellite School —Satellite school means any other school or schools in the district designated as such by the district and/or county superintendent of schools and approved by the State Board of Education. Satellite schools shall be named in accordance with the priority measures established by Section 44636.

(c) Program—Program means a professional development and program improvement center program established pursuant to this article.

(d) Joint Program—Joint program shall mean a program undertaken through joint agreement by two or more school districts or county superintendents of schools joined together for the purpose of providing in-service training to administrators and teachers teaching kindergarten and grades 1 through 8.

(e) Funding—Funding means those state and/or federal monies which may be appropriated by the legislature and/or congress for the purposes of the operation of the Program Development and Program Improvement Act of 1968, as amended and the allocations of such monies to the school districts and/or county superintendents of schools pursuant to Education Code Section 44643 as amended, and such federal statutes, regulations, or executive orders as may be applicable to such programs.

(f) Performance Objective—A performance objective is an intent communicated by a statement in writing describing the proposed change in a learner (teacher, administrator, aide). Such changes must be observable and measurable.

(g) Evaluation—An evaluation is a systematic inquiry in writing to determine the effectiveness of an educational endeavor.

(h) Evaluation Design—An evaluation design is a structured plan in writing to determine the effectiveness of a project.

(i) Inservice Training —Inservice training is the education and training of teachers and other school personnel who are employees of a local educational agency and require no additional training or education to meet state teachers certification qualifications. Exceptions are made for personnel who have intern status and who need additional course work and training to meet state certification requirements for the standard teaching credentials.

(j) Preservice Training—Preservice training is the education and training of teachers and other school personnel who are, or may become, participants in the programs or joint programs contemplated by the Professional Development and Program Improvement Act of 1968, which shall be specifically designed and implemented in such a manner as to prepare such teachers or other school personnel for their participation in this program.

(k) Master Teacher—A master teacher is one who has been determined to be an outstanding teacher by the school district and/or the

county superintendent of schools and the cooperating institution of higher education.

(l) **Resource Teacher**—A resource teacher is a master teacher as defined in (k) above in reading and mathematics for purposes of this program.

(m) **Specialist Teacher**—A specialist teacher is a master teacher in reading and/or mathematics as referred to in Chapter 1499, Statutes of 1974 (commencing with Education Code Section 44631) for purposes of this program. This term is also used as a synonym of the words resource teacher in this program.

(n) **Project Budget**—Project budget means that amount of money specifically set forth in the applications of the school districts and/or the county superintendents of schools which may be approved by the State Board of Education for the operation of these programs.

(o) **Replacement Teacher**—A replacement teacher is one who holds an appropriate California teaching credential and who replaces the teacher in the satellite school in order that the satellite teacher may receive training in the center school program. Long-term and short-term substitute teachers may be used.

(p) **Satellite School Trainee**—A satellite school trainee is a person who holds a position in the satellite school and is eligible to participate in the training program.

(q) **Staff Development**—Staff development is the development of personnel competencies that promote pupil achievement.

(r) **Training Cycle**—A training cycle is a specified period of time devoted to the intensive training of school personnel.

NOTE: Authority cited for Chapter 9: Sections 33031 and 44639, Education Code.

HISTORY

1. New Chapter 9 (§§ 13025–13044) filed 5–21–75; effective thirtieth day thereafter (Register 75, No. 21).

2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13026. Agencies Eligible to Apply.

Any public school district and/or county superintendent of schools may make application for funds under the Professional Development and Program Improvement Act of 1968 as amended by Chapter 1499, Statutes of 1974–75.

§ 13027. Establishing Professional Development Centers and Programs.

Educational agencies applying for funds under provisions contained in Education Code Sections 44635 and 44638 shall provide assurances that:

(a) Professional development and program improvement centers will be established to strengthen the instructional techniques of classroom teachers and other instructional personnel in kindergarten and grades one through six to improve the educational achievement of pupils in reading and mathematics.

(b) Joint programs shall be designed to strengthen the instructional techniques of classroom teachers and other instructional personnel in kindergarten and grades one through eight to improve the achievement of pupils in reading and mathematics.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13028. Selecting the Center.

The school designated as the center shall meet all of the following requirements:

(a) Be an elementary school which is classified as either an Elementary and Secondary Education Act Title I school, a Miller–Unruh school (E.C. 54100 et seq.), an educationally disadvantaged youth school (E.C. 54000 et seq.), or an early childhood education school (E.C. 52000 et seq.).

(b) Have master teachers determined by the local school district and/or the county superintendent and the participating teacher training institution to be outstanding.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13029. Selecting Satellite Schools.

Schools designated as satellite schools shall:

(a) Have the largest concentration of pupils whose reading or mathematics achievement scores or both fall below the first quartile as measured by standardized tests in reading and mathematics.

(b) Have one or more master teachers who will be identified to act as resource teachers in reading and mathematics.

(c) Maintain a summer session and integrate their instructional programs with the inservice training program performed during the summer.

(d) Have the largest concentration of teachers who will assure the district that they will continue to teach in the satellite schools for at least two years following their participation in the training program.

(e) Be schools with K–6 enrollments or in districts using the K–3, 4–6 plan of organization, or schools in which a primary school feeds into an intermediate school serving substantially the same attendance areas, or in joint schools, or county superintendents serving K–8 schools.

(f) Satellite schools shall be selected annually by a ranking process based on (a) above.

§ 13030. Assurances Required.

The applicant school district or county superintendent of schools shall give assurances that the following requirements and standards will be met in selecting personnel for the center.

(a) The director of the center program shall be appointed by the school district or county superintendent of schools with the concurrence of the cooperating teacher training institution.

(b) School districts shall select master teachers that are judged to be outstanding by the participating teacher training institution and the local school district or county superintendent of schools.

(c) All professional staff from the teacher training institution assigned to the center school shall have the concurrence of the applicant school district or county superintendent of schools.

(d) Applicant school districts or county superintendents of schools shall cooperate with one or more higher education institutions in the planning, implementation, and evaluation of the training program.

(e) The school districts or county superintendents of schools shall provide professional development program centers with adequate staff to perform auxiliary and administrative services, teacher aides, and replacement teachers.

(f) All project staff, except those employed by teacher preparation institutions, with the training project shall have standard California credentials.

HISTORY

1. Editorial correction of section number Reg. 77, No. 39.

§ 13031. Personnel Rotation.

All instructional and administrative school personnel from satellite schools and/or participating schools are required to participate in the center program on a rotational basis.

§ 13032. Professional Development Steering Committee.

In addition to any other school or school district advisory committees, districts participating in professional development center programs shall form a professional development steering committee. The professional development steering committee shall maintain liaison with the school and school district advisory committees and should keep these committees informed of the status of the program. The professional development steering committee shall consist of but not be limited to the following membership:

(a) The director of all staff development programs, operating within the district.

(b) All principals of the schools in which the professional development and program improvement center will be conducted.

(c) A representative from the institution of higher education which will cooperate with the school district in implementing the professional development and program improvement center.

(d) A representative of the group of master teachers involved in the training program.

(e) A representative of the group of participants and/or graduates of previous professional development center programs.

§ 13033. Integration of the Center Program with Other Staff Development or Training Programs.

Professional development centers/joint programs must be integrated with existing staff development activities for reading and mathematics within the school district and within the schools in which the training occurs. This integration system must be described in the application for funds, and must include people, physical facilities, materials, and equipment, whether funded by any local, other state, or federal program source.

§ 13034. Summer School Training Required.

Each center and satellite school shall participate in a summer school for students and each project shall include a summer training component.

§ 13035. Maintenance of Effort.

Professional Development and Program Improvement Act funds are intended to supplement and not supplant other federal, state, and local funds. Applicants for this program are required to maintain, in each school in which professional development participants are employed and trained, a level of expenditure that is at least equal to the level of expenditure that would be maintained if professional development funds were not being expended.

§ 13036. Legislative Ceiling on Per Capita Cost.

The maximum number of dollars per participant under the appropriation for this program is established by law. Participants are administrators, teachers, aides, replacement teachers, auxiliary personnel, and others who receive training.

§ 13037. Competitive Nature of the Program.

It is the intent of the legislature that funds available be distributed throughout California. Applications will be ranked on the basis of Education Code Sections 44635, 44636 or 44638. The highest ranked applications will be recommended for funding.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13038. Development of Program.

(a) Needs Assessment.

Each application shall include comprehensive data on the unmet needs of the student population and of the administrative and instructional staff members of the participating schools. Data submitted must include, but is not limited to, input from students, parents, and staff members. Special emphasis must be given to the needs for improved pupil achievement in reading and mathematics.

(b) Objectives.

Each application shall include statements of objectives, stated in performance terms, with performance criteria identified for all participants in the project.

(c) Activities.

Each application shall include descriptions of the system of rotation by which the participants will be released from regular duties, receive concentrated training, receive follow-up support, and be assessed. Summer school activities shall be described in relation to school-year activities, with a rationale for the sequence of training experience to be received by the participants. Learning groups of trainers and trainees shall be described, and organizational and flow charts provided to graphically illustrate relationships and experience sequences.

Activities must be developed around a fully described theoretical model. Appropriate references to research in teacher education shall be

cited, including but not limited to data generated in previous years in the applicant district and research done at the cooperating teacher training institution. All activities must be described in an overall management plan which shows what is to be done, by whom, and by when.

§ 13039. Project Evaluation and Reporting.

Each funded agency must submit a year-end evaluation and report to the State Department of Education in a format to be provided by the Department. Annual reports are due in Sacramento by the close of business, July 31 of each year.

(a) Report on Program Implementation Process.

The program application as submitted and approved must be implemented. The process by which the activities described are implemented must be monitored by the Professional Development Steering Committee. The Committee's report on the degree to which the management plan has been implemented must be submitted as a component of the year-end program report.

(b) Evaluation of the Program Product.

Evaluation of the program product shall focus on two populations:

(1) Standardized achievement test data shall include scores of pupils taught for at least a full school year by a teacher who has completed the inservice training program. A comparison with scores of pupils in comparable classes taught by teachers who have not completed the training must be made.

(2) Baseline, pretraining data shall be gathered on all participants and compared with post training data. Such data shall include, but is not limited to, the objectives established for knowledge and performance skills to be mastered by the participants.

§ 13040. Continuity of Funding.

(a) Contingent upon the availability of funding, projects will, beginning with the 1975-76 fiscal year, be funded for two years. Exceptions will be projects which are found by representatives of the State Department of Education to be:

(1) Substantially out of compliance with these regulations, or

(2) Substantially at variance in program operation from the program described in the approved application.

(b) At the end of the second year of operation, programs will be reviewed in terms of:

(1) Whether the needs of the pupils have been substantially met, and

(2) Whether the program has been cost-effective in operation.

§ 13041. Reports and Inspection of Records.

On request of the Superintendent of Public Instruction, records shall be made available for inspection to verify the accuracy of reports and to determine the conformity of program activities to the applicable program plans. Each school district and county superintendent of schools maintaining programs under this chapter shall submit such reports at such times as the Superintendent of Public Instruction shall require to effect the purposes of this chapter.

§ 13042. Fiscal and Technical Requirements.

(a) Districts and county superintendents maintaining programs under this chapter shall develop budgets, account records, claims for reimbursement, and reports in accordance with the California School Accounting Manual.

(b) Auditable records shall be developed by the school districts or county superintendents to document compliance with federal and state regulations.

§ 13043. Compliance with Nondiscrimination Requirements.

Each application shall include assurance that the applicant agency shall comply with Title VI, Civil Rights Act of 1964, and Title IX, Education Act Amendment of 1972, Sections 30 through 36 of Title 5 of the Cal-

ifornia Administrative Code, and the California Fair Employment Practices Act, as amended.

§ 13044. Waivers.

Applicant districts may apply to the State Board of Education for waivers from provisions of the California Education Code under the provisions of Education Code Sections 52000 with respect to early childhood education schools and 58603 with respect to ESEA Title I schools if the granting of such waivers (which are not inconsistent with federal statutes or regulations) will aid such applicant districts in the establishment and operation of early childhood education programs or compensatory education programs for low income children.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 11. School Housing Aid for Compensatory Education

(Education Code Sections 16210–16215)

Article 1. General Provisions

§ 13050. Application for Funds.

An applicant for school housing aid pursuant to Education Code Sections 16210–16215 shall be identified as a “most concentrated area of poverty and social tension” described in Section 12051 or a “designated area of disadvantage” described in Education Code Section 58600.

NOTE: Authority cited for Chapter 11: Section 16213, Education Code.

HISTORY

1. New Chapter 11 (§§ 13050 through 13053) filed 1–14–70; effective thirtieth day thereafter (Register 70, No. 3).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13051. Priorities to Districts Reducing Teacher–Pupil Ratio.

Priorities in grants and allocations pursuant to Article 4 of Chapter 8 of Part 10 of the Education Code shall be granted to districts for use in areas designated as the most concentrated areas of poverty and social tension in the State when the district has reduced, or submitted an approvable plan for reducing, the number of pupils to full-time equivalent classroom teachers in grades kindergarten through six, inclusive, in those schools to a ratio of not more than 25–1.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13052. Basis of Priorities.

Priorities for purposes of grants and allocations pursuant to Article 4 of Chapter 8 of Part 10 of the Education Code shall be based upon needs and the urgency thereof, of school districts as determined by the following factors:

(a) Justification of the need for new school plants, new classrooms, acquisition of land, sites for new classrooms, or remodeling, renovation or reconstruction of existing school buildings or facilities.

(b) The number of available unused or partially used classrooms in the designated area.

(c) The number of available unused or partially used classrooms outside of the designated area which may be used reasonably to accommodate pupils from the designated area.

(d) The joint recommendation of the Bureau of School Facilities Planning and the Bureau of Intergroup Relations of the Department of Education of district plans for new school plants, acquisition of land, sites for new classrooms, for construction of new facilities, or for remodeling, renovation, or reconstruction of existing school buildings or facilities.

(e) Availability of the district’s uncommitted capital outlay funds for school housing to meet the needs of the district’s plan for compensatory education.

HISTORY

1. Amendment of subsection (d) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 13053. Computation of Entitlements.

Entitlements for school housing aid shall be computed on the basis of public school population ratios determined in accordance with Education Code Section 54483. The Director, with the approval of the State Board of Education, may modify entitlements when required by the comparative needs, and the urgency thereof, of school districts.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 12. School Housing Aid for Districts Impacted by Seasonal Agricultural Employment

HISTORY

1. New Chapter 12 (Section 13070) filed 1–14–70; effective thirtieth day thereafter (Register 70, No. 3).
2. Repealer of Chapter 12 (Section 13070) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 13. Supplemental Services

§ 13075. Application of this Subchapter.

This subchapter shall apply to supplemental services providers and those seeking to provide supplemental services as specified in section 1116(e) of the No Child Left Behind (NCLB) Act of 2001 (20 U.S.C. 6316).

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 U.S.C. Section 6316.

HISTORY

1. New subchapter 13 (section 13075) and section filed 6–20–2003 as an emergency; operative 6–20–2003 (Register 2003, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–20–2003 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6–20–2003 order transmitted to OAL 9–16–2003 and filed 10–29–2003 (Register 2003, No. 44).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 5–6–2005; operative 5–6–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 13075.1. Definitions.

For purposes of this subchapter, the following definitions apply:

(a) “Eligible applicant” means any public or private (nonprofit or for-profit) entity and includes public schools (including charter schools), private schools, school districts, or county offices of education that are not currently identified for program improvement or for corrective action pursuant to section 1116(b)(1) of NCLB, institutions of higher education, faith-based and community-based organizations and private businesses:

(b) “Approved supplemental educational services provider” (“provider”) means an eligible applicant that has been approved by the State Board of Education (SBE) pursuant to the provisions of this subchapter:

(c) “Eligible student” means a child from a low-income family as determined by the local educational agency for purposes of allocating funds under section 1113(c)(1) of NCLB who is attending a Title I funded school that is in year two or beyond of program improvement;

(d) “Demonstrated record of effectiveness in increasing the academic proficiency of students” means an eligible applicant has documentation of the following:

(1) Improved student academic performance in individual student scores on national, state, district or other assessments in English language arts and/or mathematics. These assessments must be developed in accordance with the standards for validity and reliability as set forth in *Standards for Educational and Psychological Testing* (1999); and

(2) Improved student academic performance as measured by written teacher assessments of student growth in English language arts and/or mathematics.

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 U.S.C. Section 6316.

HISTORY

1. New section filed 5-6-2005; operative 5-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 13075.2. Application, Quality Requirements and Approval.

(a) Eligible applicants must submit a completed application to CDE before March 1 of the school year preceding the fiscal year in which they wish to become a provider;

(b) Applications will be reviewed by CDE and submitted to SBE for approval. The effective date of any ensuing approval will be July 1 of that same calendar year;

(c) An eligible applicant shall be considered for approval upon receipt of a completed application that satisfies each of the following qualifications;

(1) Documents a demonstrated record of effectiveness as defined in section 13075.1;

(2) Contains at least five letters of reference from previous clients (e.g., families, schools, districts, teachers, etc.) offering testimonial information about the positive impact of the applicant's program.

(3) Certifies that the applicant has not been removed, pursuant to section 13075.4 of this subchapter, for cause from the list of approved supplemental educational services providers at any time within the two years preceding the fiscal year (July 1–June 30) for which it is submitting an application;

(4) Provides written proof of current liability insurance coverage and assures they will provide the local educational agencies with which they contract written proof of current liability insurance coverage and other necessary insurance of the type and in the amount required by the local educational agency;

(5) Demonstrates that it is legally constituted and qualified to do business in California;

(6) Describes the staffing, fiscal, equipment, and facility resources of the organization that enable it to work with students in compliance with these regulations and applicable federal, state and local statutes and regulations;

(7) Demonstrates it is fiscally sound as shown by all of the following:

(A) Proof of financial resources to operate as a provider for a minimum of 6 months after initial approval, including a description of how the organization receives funding (e.g., grants, fees-for-services, etc.) separate from reimbursement for provider services;

(B) Proof of financial viability (e.g., through audits, financial statements, or credit rating);

(C) Organizational budgets that identify all sources of revenues available to the applicant and cash flow activity related to the expenditures of that revenue;

(8) Provides certification that the facility meets all applicable federal, state and local health and safety laws, if instruction will occur at a facility other than the student's school or residence;

(9) Demonstrates instruction meets the following criteria:

(A) Instruction will be aligned with applicable state adopted academic content standards, K–12 curriculum frameworks and instructional materials;

(B) Instruction will be organized and presented in a manner designed to meet the specific achievement goals of individual students;

(C) Instruction will be coordinated with the student's school program, including an Individual Education Plan (IEP) and/or a 504 Plan, if applicable;

(D) Instruction will be of high quality and will increase student academic achievement in English language arts and/or mathematics;

(E) Instruction shall be provided outside of the regular school day;

(F) Instruction will be provided that is secular, neutral, and non-ideological;

(10) Describes the procedure for developing specific achievement goals in consultation with parents/guardians and school staff.

(11) Describes the manner in which students with disabilities and English learners will have access to services;

(12) Defines procedures for providing students, parents/guardians, teachers, schools and/or districts with regular reports of student progress;

(13) Describes how the applicant shall secure parental/guardian permission to have access to student data (e.g., STAR data, IEP data and/or 504 data) maintained by the local educational agency (LEA) for each student served for purposes of demonstrating academic improvement;

(14) Provides assurances that all student information shall be kept confidential except as necessary to inform parents/guardians and appropriate school staff;

(15) Describes the process of collaborating with contracting school districts in the use of individual student STAR test results and/or other measures used for purposes of accountability in determining the increase in student academic performance;

(16) Describes procedures to maintain, monitor, and notify LEAs about personnel updates related to provider's staff changes;

(17) Describes procedures for completion of, and compliance with, staff background checks, fingerprinting, and TB tests for all employees providing direct services to students;

(18) Provides assurance that the provider will comply with all applicable federal, state, and local health, safety, and civil rights laws;

(19) Agrees to limit incentives to those directly related to services provided, and not to exceed a monetary value as designated in the contract with the LEA.

(20) Agrees to abide by the conditions set forth in the contract with the LEA, including the payment schedule, rates, and any facility user fee arranged with the LEA that will be in compliance with section 1116(e)(3) and (6) of the NCLB;

(21) Agrees to participate in the monitoring and evaluation process contained in this subchapter.

(d) The term of approval is for a maximum of two fiscal years (July 1–June 30).

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 U.S.C. Section 6316.

HISTORY

1. New section filed 5-6-2005; operative 5-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 13075.3. Submission of an Annual End-of-Fiscal-Year Report by Approved Providers.

(a) Approved providers must submit an annual end-of-fiscal-year report to CDE by October 1 each year disclosing the following:

(1) Names and numbers of schools served.

(2) Total number of students served by grade levels.

(3) Location(s) where services were provided.

(4) Data for individual students served, with student identifying information redacted, as follows:

(A) Beginning and ending dates of service;

(B) Instructional delivery methods;

(C) Subject area (i.e. English language arts and/or mathematics);

(D) Beginning and ending scores on national, state, district or other assessments in English language arts and/or mathematics. The assessments used for this purpose must be developed in accordance with the standards for validity and reliability as set forth in *Standards for Educational and Psychological Testing* (1999).

(5) Fiscal and expenditure information; and

(6) Written documentation of any changes that have occurred during the year of reporting as outlined in numbers 4, 5, 6, 7 or 8 of section 13075.2(c).

(7) The number of students served online, with one-on-one tutoring, or in a small group setting; and

(8) Computer equipment and technology made available during, and solely for, tutoring services to the student served;

(b) These records to support the annual end-of-fiscal-year report must be retained for three years after submission of the report.

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 U.S.C. Section 6316.

HISTORY

1. New section filed 5-6-2005; operative 5-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

§ 13075.4. Termination as an Approved Provider.

(a) A provider that is a local educational agency or school identified for program improvement or corrective action under section 1116(b)(1) and 1116(c)(3) of NCLB during its term of approval is automatically terminated as an approved provider by operation of law.

(b) After notice and opportunity to be heard, a provider's status as an approved provider may be terminated by the SBE for any of the following reasons:

(1) The provider has failed to provide information requested by CDE to allow CDE to monitor and evaluate the program;

(2) The provider has failed to monitor and evaluate the progress of students receiving services;

(3) The provider has failed to contribute to increasing the academic proficiency in English language arts and/or mathematics for two consecutive years for a majority of students served, as demonstrated by student scores on national, state, district or other assessments in English language arts or mathematics for grades 2-11 and by teacher recommendations for grades K-1 and grade 12. These assessments must be developed in accordance with the standards for validity and reliability as set forth in *Standards for Educational and Psychological Testing* (1999).

(4) The provider has failed to meet applicable federal, state and local health, safety, or civil rights laws;

(5) The provider has failed to meet the requirements of 4, 5, 6, 7 or 8 under section 13075.2(c);

(6) The provider has failed to meet the reporting requirements under section 13075.3; or

(c) An approved provider may relinquish its approval by notifying CDE in writing.

NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 U.S.C. Section 6316.

HISTORY

1. New section filed 5-6-2005; operative 5-6-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

Chapter 13. School Facilities and Equipment

Subchapter 1. School Housing

Article 1. General Standards

§ 14000. Policy Declaration.

NOTE: Authority cited for Article 1: Sections 39000, 39100, 39101 and 39118, Education Code.

HISTORY

1. New chapter 1 (§§ 14000, 14001, 14010, 14020, 14021, 14030 through 14033, 14040 through 14045) filed 1-14-70; effective thirtieth day thereafter. Approved *nunc pro tunc* by State Building Standards Commission as to any building standards involved (Register 70, No. 3).

2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

3. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14001. Minimum Standards.

Educational facilities planned by school districts shall be:

(a) Evolved from a statement of educational program requirements which reflects the school district's educational goals and objectives.

(b) Master-planned to provide for maximum site enrollment..

(c) Located on a site which meets California Department of Education standards as specified in Section 14010.

(d) Designed for the environmental comfort and work efficiency of the occupants.

(e) Designed to require a practical minimum of maintenance.

(f) Designed to meet federal, state, and local statutory requirements for structure, fire, and public safety.

(g) Designed and engineered with flexibility to accommodate future needs.

NOTE: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17017.5 and 17251(b), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of text and adoption of NOTE filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

3. Amendment of NOTE filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

Article 2. School Sites

§ 14010. Standards for School Site Selection.

All districts shall select a school site that provides safety and that supports learning. The following standards shall apply:

(a) The net usable acreage and enrollment for a new school site shall be consistent with the numbers of acres and enrollment established in the 2000 Edition, "School Site Analysis and Development" published by the California Department of Education and incorporated into this section by reference, in toto, unless sufficient land is not available or circumstances exist due to any of the following:

(1) Urban or suburban development results in insufficient available land even after considering the option of eminent domain.

(2) Sufficient acreage is available but it would not be economically feasible to mitigate geological or environmental hazards or other site complications which pose a threat to the health and/or safety of students and staff.

(3) Sufficient acreage is available but not within the attendance area of the unhoused students or there is an extreme density of population within a given attendance area requiring a school to serve more students on a single site. Choosing an alternate site would result in extensive long-term bussing of students that would cause extreme financial hardship to the district to transport students to the proposed school site.

(4) Geographic barriers, traffic congestion, or other constraints would cause extreme financial hardship for the district to transport students to the proposed school site.

(b) If a school site is less than the recommended acreage required in subsection (a) of this section, the district shall demonstrate how the students will be provided an adequate educational program including physical education as described in the district's adopted course of study.

(c) The property line of the site even if it is a joint use agreement as described in subsection (o) of this section shall be at least the following distance from the edge of respective power line easements:

(1) 100 feet for 50-133 kV line.

(2) 150 feet for 220-230 kV line.

(3) 350 feet for 500-550 kV line.

(d) If the proposed site is within 1,500 feet of a railroad track easement, a safety study shall be done by a competent professional trained in assessing cargo manifests, frequency, speed, and schedule of railroad traffic, grade, curves, type and condition of track need for sound or safety barriers, need for pedestrian and vehicle safeguards at railroad crossings, presence of high pressure gas lines near the tracks that could rupture in the event of a derailment, preparation of an evacuation plan. In addition to the analysis, possible and reasonable mitigation measures must be identified.

(e) The site shall not be adjacent to a road or freeway that any site-related traffic and sound level studies have determined will have safety

problems or sound levels which adversely affect the educational program.

(f) Pursuant to Education Code sections 17212 and 17212.5, the site shall not contain an active earthquake fault or fault trace.

(g) Pursuant to Education Code sections 17212 and 17212.5, the site is not within an area of flood or dam flood inundation unless the cost of mitigating the flood or inundation impact is reasonable.

(h) The site shall not be located near an above-ground water or fuel storage tank or within 1500 feet of the easement of an above ground or

underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional, which may include certification from a local public utility commission.

(i) The site is not subject to moderate to high liquefaction or landslides.

(j) The shape of the site shall have a proportionate length to width ratio to accommodate the building layout, parking and playfields that can be safely supervised and does not exceed the allowed passing time to classes for the district.

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(k) The site shall be easily accessible from arterial roads and shall allow minimum peripheral visibility from the planned driveways in accordance with the Sight Distance Standards established in the "Highway Design Manual," Table 201.1, published by the Department of Transportation, July 1, 1990 edition, and incorporated into this section by reference, in toto.

(l) The site shall not be on major arterial streets with a heavy traffic pattern as determined by site-related traffic studies including those that require student crossings unless mitigation of traffic hazards and a plan for the safe arrival and departure of students appropriate to the grade level has been provided by city, county or other public agency in accordance with the "School Area Pedestrian Safety" manual published by the California Department of Transportation, 1987 edition, incorporated into this section by reference, in toto.

(m) Existing or proposed zoning of the surrounding properties shall be compatible with schools in that it would not pose a potential health or safety risk to students or staff in accordance with Education Code Section 17213 and Government Code Section 65402 and available studies of traffic surrounding the site.

(n) The site shall be located within the proposed attendance area to encourage student walking and avoid extensive bussing unless bussing is used to promote ethnic diversity.

(o) The site shall be selected to promote joint use of parks, libraries, museums and other public services, the acreage of which may be included as part of the recommended acreage as stated in subsection (a) of this section.

(p) The site shall be conveniently located for public services including but not limited to fire protection, police protection, public transit and trash disposal whenever feasible.

(q) The district shall consider environmental factors of light, wind, noise, aesthetics, and air pollution in its site selection process.

(r) Easements on or adjacent to the site shall not restrict access or building placement.

(s) The cost and complications of the following shall be considered in the site selection process and should not result in undue delays or unreasonable costs consistent with State Allocation Board standards:

(1) Distance of utilities to the site, availability and affordability of bringing utilities to the site.

(2) Site preparation including grading, drainage, demolition, hazardous cleanup, including cleanup of indigenous material such as serpentine rock, and off-site development of streets, curbs, gutters and lights.

(3) Eminent domain, relocation costs, severance damage, title clearance and legal fees.

(4) Long-term high landscaping or maintenance costs.

(5) Existence of any wildlife habitat that is on a protected or endangered species list maintained by any state or federal agency, existence of any wetlands, natural waterways, or areas that may support migratory species, or evidence of any environmentally sensitive vegetation.

(t) If the proposed site is on or within 2,000 feet of a significant disposal of hazardous waste, the school district shall contact the Department of Toxic Substances Control for a determination of whether the property should be considered a Hazardous Waste Property or Border Zone Property.

(u) At the request of the governing board of a school district, the State Superintendent of Public Instruction may grant exemptions to any of the standards in this section if the district can demonstrate that mitigation of specific circumstances overrides a standard without compromising a safe and supportive school environment.

NOTE: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17212, 17212.5, 17213, 17251(b) and 17251(f), Education Code.

HISTORY

1. Renumbering of former section 14010 to section 14011 and new section filed 11-12-93; operative 12-13-93 (Register 93, No. 46). For prior history, see Register 77, No. 39.

2. Amendment of section and NOTE filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14011. Procedures for Site Acquisition — State-Funded School Districts.

A state-funded school district is defined as a school district having a project funded under Chapter 12.5 (commencing with Section 17070.10) of the Education Code. A state-funded school district, before acquiring title to real property for school use, shall obtain written approval from the California Department of Education using the following procedures:

(a) Request a preliminary conference with a consultant from the School Facilities Planning Division and in consultation review and evaluate sites under final consideration.

(b) Contact the School Facilities Planning Division of the California Department of Education to obtain a "School Facilities Planning Division Field Site Review," form SFPD 4.0, published by the California Department of Education, as last amended in December 1999 and incorporated into this section by reference, in toto, which lists the site options in order of merit according to the site selection standards delineated in Section 14010.

(c) Prepare a statement of policies as delineated on the "School Facilities Planning Division School Site Report," form SFPD 4.02, as last amended in December 1999 and incorporated into this section by reference, in toto, covering the range and organization of grades to be served, the transportation of pupils, and the ultimate maximum pupil enrollment to be housed on the site. Prepare a statement showing how the site is appropriate in size as justified by the school district's Facilities Master Plan, including acreage increases above the California Department of Education recommendation made to compensate for off-site mitigation. A school district may choose, in place of a master plan, a developer fee justification document or a five-year plan if it addresses enrollment projections, needed schools, and site sizes.

(d) Prepare maps showing present and proposed school sites, significant roads or highways, unsanitary or hazardous installations, such as airports or industries and the indicated boundary of the pupil attendance area to be served as delineated on form SFPD 4.02.

(e) Meet with appropriate local government, recreation, and park authorities to consider possible joint use of the grounds and buildings and to coordinate the design to benefit the intended users as required by Education Code Section 35275.

(f) Give written notice to the local planning agency having jurisdiction to review the proposed school site or addition to an existing school site and request a written report from the local planning agency of the investigations and recommendations for each proposed site with respect to conformity with the adopted general plan as required by Public Resources Code Section 21151.2 and Government Code Section 65402.

(g) Comply with Education Code Sections 17212 and 17212.5, with particular emphasis upon an engineering investigation made of the site to preclude locating the school on terrain that may be potentially hazardous:

(1) The geological and soils engineering study shall address all of the following:

(A) Nature of the site including a discussion of liquefaction, subsidence or expansive soils, slope, stability, dam or flood inundation and street flooding.

(B) Whether the site is located within a special study zone as defined in Education Code Section 17212.

(C) Potential for earthquake or other geological hazard damage.

(D) Whether the site is situated on or near a pressure ridge, geological fault or fault trace that may rupture during the life of the school building and the student risk factor.

(E) Economic feasibility of the construction effort to make the school building safe for occupancy.

(2) Other studies shall include the following:

(A) Population trends

(B) Transportation

(C) Water supply

(D) Waste disposal facilities

- (E) Utilities
- (F) Traffic hazards
- (G) Surface drainage conditions
- (H) Other factors affecting initial and operating costs.

(h) Prepare an environmental impact report, or negative declaration in compliance with the Environmental Quality Act, Public Resources Code, Division 13, (commencing with Section 21000 with particular attention to Section 21151.8). As required by Education Code Section 17213, the written findings of the environmental impact report or negative declaration must include a statement verifying that the site to be acquired for school purposes is not currently or formerly a hazardous, acutely hazardous substance release, or solid waste disposal site or, if so, that the wastes have been removed. Also, the written findings must state that the site does not contain pipelines which carry hazardous wastes or substances other than a natural gas supply line to that school or neighborhood. If hazardous air emissions are identified, the written findings must state that the health risks do not and will not constitute an actual or potential danger of public health of students or staff. If corrective measures of chronic or accidental hazardous air emissions are required under an existing order by another jurisdiction, the governing board shall make a finding that the emissions have been mitigated prior to occupancy of the school.

(i) Consult with, or demonstrate that the lead agency, if other than the district preparing the environmental impact report or negative declaration, has consulted with the appropriate city/county agency and with any air pollution control district or air quality management district having jurisdiction, concerning any facilities having hazardous or acutely hazardous air emissions within one-fourth of a mile of the proposed school site as required by Education Code Section 17213.

(j) For purposes of Environmental Site Assessment, school districts shall comply with Education Code sections 17210.1, 17213.1, and 17213.2.

(k) Follow the recommendations of the State Superintendent of Public Instruction report based upon the Department of Transportation, Division of Aeronautics, findings, if the proposed site is within two miles of the center line of an airport runway or proposed runway as required by Education Code Section 17215.

(l) Follow the standards for school site selection in Section 14010 of this article.

(m) Conduct a public hearing by the governing board of the school district as required in Education Code Section 17211 to evaluate the property using the standards described in Section 14010 of this article. The school district's facility advisory committee may provide an evaluation of the proposed site to the governing board.

(n) Submit the request for exemption from a standard in Section 14010 of this article, with a description of the mitigation that overrides the standard, to the California Department of Education.

(o) Certify there are no available alternative school district-owned sites for the project deemed usable for school purposes by the California Department of Education or certify that the school district intends to sell an available alternative school district-owned site and use the proceeds from the sale for the purchase of the new school site.

NOTE: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17070.50, 17072.12, 17210.1, 17211, 17212, 17213 and 17251(b), Education Code.

HISTORY

1. Renumbering and amendment of section 14010 to section 14011 and adoption of NOTE filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Amendment of section heading, section and NOTE filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14012. Procedures for Site Acquisition – Locally-Funded School Districts.

A locally-funded school district is defined as a school district with a project not applying for funding from any state program administered by the State Allocation Board as defined in Chapter 12.0 (commencing with Section 17000) or Chapter 12.5 (commencing with Section 17070.10) of

the Education Code. A locally-funded school district, before acquiring title to real property for school use, shall:

(a) Evaluate the property using the standards established in Section 14010 and items (e) through (l) in Section 14011;

(b) Comply with terms of the complaint investigation described in Section 14012(d); and

(c) May request advice from the California Department of Education as described in Education Code Section 17211(a).

(d) Prepare documentation of and retain for purposes of a complaint investigation the exemption from the standard in Section 14010 of this article with a description of the mitigation that overrides the standard. Locally-funded school districts may request from the California Department of Education a review of the adequacy of the mitigation measure.

(e) Comply with Education Code section 17268 regarding potential safety or health risks to students and staff.

NOTE: Authority cited: Sections 17251(b) and 33031, Education Code. Reference: Sections 17251(a) and (b) and 17268, Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Repealer of former section 14012 and renumbering of former section 14013 to new section 14012, including amendment of section heading, section and NOTE, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14013. Procedures for Site Acquisition – Locally-Funded Districts.

NOTE: Authority cited: Section 39001(b), Education Code. Reference: Sections 17700 et. seq., 39101(a), and 39101(b), Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Renumbering of former section 14013 to section 14012 filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

Article 3. Attendance Areas and Practices

HISTORY

1. Repealer of Article 3 (Sections 14020-14021) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 70, No. 11; Register 70, No. 26 and Register 71, No. 1.

Article 4. Standards, Planning and Approval of School Facilities

§ 14030. Standards for Development of Plans for the Design and Construction of School Facilities.

The following standards for new schools are for the use of all school districts for the purposes of educational appropriateness and promotion of school safety:

(a) Educational Specifications.

Prior to submitting preliminary plans for the design and construction of school facilities, and as a condition of final plan approval by CDE, school board-approved educational specifications for school design shall be prepared and submitted to the California Department of Education based on the school district's goals, objectives, policies and community input that determine the educational program and define the following:

- (1) Enrollment of the school and the grade level configuration.
- (2) Emphasis in curriculum content or teaching methodology that influences school design.
- (3) Type, number, size, function, special characteristics of each space, and spatial relationships of the instructional area that are consistent with the educational program.
- (4) Community functions that may affect the school design.
- (b) Site Layout.

Parent drop off, bus loading areas, and parking shall be separated to allow students to enter and exit the school grounds safely unless these features are unavailable due to limited acreage in urban areas or restrictive locations, specifically:

(1) Buses do not pass through parking areas to enter or exit school site unless a barrier is provided that prevents vehicles from backing directly into the bus loading area.

(2) Parent drop off area is adjacent to school entrance and separate from bus area and staff parking.

(3) Vehicle traffic pattern does not interfere with foot traffic patterns. Foot traffic does not have to pass through entrance driveways to enter school. Crosswalks are clearly marked to define desired foot path to school entrance.

(4) Parking stalls are not located so vehicles must back into bus or loading areas used by parents. Island fencing or curbs are used to separate parking areas from loading/unloading areas.

(5) To provide equal access to insure the purposes of the least restrictive environment, bus drop off for handicapped students is in the same location as for regular education students.

(c) Playground and Field Areas.

Adequate physical education teaching stations shall be available to accommodate course requirements for the planned enrollment, specifically:

(1) A variety of physical education teaching stations are available to provide a comprehensive physical education program in accordance with the district's adopted course of study (including hardcourt, field area and indoor spaces).

(2) The physical education teaching stations are adequate for the planned student enrollment to complete the minimum instruction and course work defined in Education Code Sections 51210(g), 51220(d) and 51225.3(a)(1)(F).

(3) Supervision of playfields is not obstructed by buildings or objects that impair observation.

(4) Joint use for educational purposes with other public agencies is explored. Joint use layout with parks is not duplicative and fulfills both agencies' needs.

(d) Delivery and Utility Areas.

Delivery and service areas shall be located to provide vehicular access that does not jeopardize the safety of students and staff:

(1) Delivery/utility vehicles have direct access from the street to the delivery area without crossing over playground or field areas or interfering with bus or parent loading unless a fence or other barrier protects students from large vehicle traffic on playgrounds.

(2) Trash pickup is fenced or otherwise isolated and away from foot traffic areas.

(e) Future Expansion.

Site layouts shall have capability for expansion without substantial alterations to existing structures or playgrounds:

(1) Site layout designates area(s) for future permanent or temporary additions that are compatible with the existing site plans for playground layout and supervision.

(2) Utilities to the expansion area are included in the plans and have the capacity to accommodate anticipated growth.

(3) Exits, corridors, stairs, and elevators are located to accommodate capacity of additions, particularly in such buildings added as the multi-purpose/cafeteria, administration, gymnasium/or auditorium.

(f) Placement of Buildings.

Building placement shall consider compatibility of the various functions on campus and provide optimum patterns of foot traffic flow around and within buildings. Site layout of buildings, parking, driveways, and physical education areas shall be adequate to meet the instructional, security and service needs of the educational program:

(1) Building placement is compatible with other functions on campus; e.g., band room is not next to library.

(2) Physical relationship of classrooms, auxiliary, and support areas allows unobstructed movement of staff and students around the campus.

(3) Building placement has favorable orientation to wind, sun, rain, and natural light.

(4) Restrooms are conveniently located, require minimum supervision, and, to the extent possible, are easily accessible from playground and classrooms.

(5) Parking spaces are sufficient for staff, visitors, and students (where applicable).

(6) The campus is secured by fencing and electronic devices such as code entries, electronic monitoring or motion sensors when needed.

(g) Classrooms.

Classrooms at new school sites shall have adequate space to perform the curriculum functions for the planned enrollment as described in the school district's facility master plan, specifically:

(1) Classroom size standards:

(A) General classrooms, grades one through twelve are not less than 960 square feet. Classrooms proposed of less than 960 square feet require written justification to be submitted to and approved by the State Superintendent of Public Instruction. Adjacent instructional space shall be included in the calculation of square feet for purposes of approving classroom design.

(B) Proposed classrooms of less than 960 square feet have written justification consistent with the educational program and curriculum indicating that the district's education program can be delivered in the proposed size classrooms.

(2) Total classroom space meets or exceeds the capacity planned for the school using the district's classroom loading standards in accordance with State Allocation Board policy.

(3) Consideration is given to some classrooms which are easily alterable in size and shape at a reasonable cost.

(4) Conduit/cabling and outlets are available for technology in each classroom to provide network and stand alone equipment related to the planned and future potential educational functions.

(h) Specialized Classrooms and Areas.

Specialized classrooms shall be designed to reflect the function planned for that portion of the educational program. If any of the following classrooms are needed, these standards apply:

(1) Small-Group Areas.

(A) Small-group instruction areas are not included in the computation of classroom size unless the area is an integral part of the classroom and can be visibly supervised by a teacher from the classroom.

(B) Small-group instruction areas are designed to allow for collaborative learning opportunities where appropriate to support the regular education program and are located in the vicinity of classrooms.

(2) Kindergarten Classrooms.

(A) Kindergarten classroom size for permanent structures is not less than 1350 square feet, including restrooms, storage, teacher preparation, wet and dry areas.

(B) Kindergarten classrooms are designed to allow supervision of play yards (unless prevented by site shape or size) and all areas of the classroom.

(C) Play yard design provides a variety of activities for development of large motor skills.

(D) Classrooms are located close to parent drop-off and bus loading areas.

(E) Storage, casework, and learning stations are functionally designed for use in free play and structured activities; e.g., shelves are deep and open for frequent use of manipulative materials.

(F) Windows, marking boards, sinks, drinking fountains, and furniture are appropriate heights for kindergarten-age students.

(G) Restrooms are self-contained within the classroom or within the kindergarten complex.

(3) Special Education Classrooms and Areas.

(A) A new school designates at least 240 square feet for the resource specialist program and provides additional space in accordance with the allocations in Education Code Section 17747(a) as larger enrollments are being planned.

(B) A new school designates at least 200 square feet for the speech and language program which is close to classrooms when an individualized instruction program is necessary.

(C) A new school designates office area for the psychologist/counseling program which provides for confidentiality and may be shared with other support service programs.

(D) Special day classrooms are at least the same size as regular education classrooms at that site and are properly equipped for the students who will occupy the space, for their age and type of disabling condition.

(E) The square footage allowance in Education Code Section 17747(a) for special day class programs is used for the design of classroom space and other space on the campus to support the special education program. The support space includes but is not limited to speech specialist area, psychologist, counseling offices and conference area.

(F) Special day classrooms are distributed throughout the campus with age appropriate regular education classrooms.

(G) A cluster of two special day classrooms may be considered if support or auxiliary services (e.g., bathrooming, feeding, physical or occupational therapy) are needed to serve the students throughout the school day.

(H) A conference area is available to conduct annual individualized education program meetings for each special education student.

(I) Medical therapy units, if planned for the site, are close to visitor parking areas and accessible after school hours.

(i) Laboratories shall be designed in accordance with the planned curriculum.

(1) Science laboratory:

(A) Size is at least 1300 square feet including storage and teacher preparation area.

(B) Science laboratory design is consistent with the requirements for proper hazardous materials management specified in both the "Science Facilities Design for California Public Schools," published by the California Department of Education, 1993, and the "Science Safety Handbook for California Public Schools," published by the California State Department of Education, 1999.

(C) Accommodations are made for necessary safety equipment and storage of supplies; e.g., fire extinguisher, first aid kit, master disconnect valve for gas.

(D) Secured storage areas are provided for volatile, flammable, and corrosive chemicals and cleaning agents.

(E) Properly designated areas are provided with appropriate ventilation for hazardous materials that emit noxious fumes, including a high volume purge system in the event of accidental release of toxic substances which may become airborne.

(F) Exhaust fume hoods, eye washes, deluge showers are provided.

(G) Floor and ceiling ventilation is provided in areas where chemicals are stored.

(H) Room is provided for movement of students around fixed-learning stations.

(I) There is the capability for technology which complements the curriculum.

(J) Classrooms are flexibly designed to insure full student access to laboratory stations and lecture areas.

(2) Consumer Home Economics laboratory:

(A) There is room for movement of students around fixed learning stations.

(B) Cooking equipment reflects current home food preparation practices and/or commercial food preparation simulation.

(C) There is the capability for technology which complements portions of the curriculum, such as fashion design, consumer economics, and nutritional analysis of foods.

(D) There is space for industrial or home sewing equipment consistent with the planned curriculum.

(E) There is storage for student projects and supplies.

(F) Space for work tables is provided for such activities as cutting fabric or completing interior design projects.

(G) Lecture area is provided.

(H) At least 1300 square feet is allocated for each laboratory.

(I) If part of the planned program, space for a child care area or for a laboratory to teach child growth and development is provided.

(3) Industrial and Technology/Education Laboratory:

(A) Room is provided for movement of students around fixed learning stations.

(B) Flexible stations with sufficient outlets and power source for industrial type equipment is provided.

(C) Space is provided for various simulations of job-related experiences and laboratory work stations.

(D) There is capability to utilize technology which complements the curriculum, such as computer-aided graphics, electronics and specialized tools.

(E) There is lecture area within each laboratory or near the laboratory area where appropriate.

(F) There are accommodations for necessary health and safety equipment, such as fire extinguisher and first aid kit.

(G) Secured storage areas for volatile, flammable and corrosive chemicals and cleaning agents are provided where appropriate.

(H) There are properly designated areas with appropriate ventilation for the use of hazardous material that emit noxious fumes or excessive dust particles.

(I) Proper storage and removal access for hazardous waste materials is provided in each laboratory using such materials.

(4) Computer Instructional Support Area:

(A) If a standard classroom is being designated as a computer laboratory, size is at least 960 square feet.

(B) Room is provided for movement of students around learning stations.

(C) Sufficient outlets, power sources, and network links for the amount of equipment are provided.

(D) Proper ventilation is provided.

(E) Room provides for security of equipment.

(F) Lighting minimizes screen glare and eye strain.

(j) Gymnasium, Shower/Locker shall be designed to accommodate multiple use activities in accordance with the planned enrollment:

(1) The gymnasium is secured from other parts of the campus for evening and weekend events or for public use purposes.

(2) The shower/locker area is of sufficient size to allow students enrolled in the physical education program to shower and dress each period.

(3) Toilets are available for the public in facilities intended for shared community use other than in shower/locker areas.

(4) Office space is provided for physical education teachers.

(5) Space is available for specialized age-appropriate physical education activities such as weight lifting, exercise equipment usage, aerobics.

(k) Auxiliary Areas.

(1) Multipurpose/cafeteria area (indoor or outdoor) shall be adequately sized and flexibly designed to protect students from the elements and to allow all students adequate eating time during each lunch period and to accommodate such uses as physical education activities, assemblies, and extracurricular activities:

(A) Tables and benches or seats are designed to maximize space and allow flexibility in the use of the space.

(B) The location is easily accessible for student and community use, but is close to street for delivery truck access.

(C) Stage/platform may have a dividing wall to be used for instructional purposes but is not intended as a classroom.

(D) Area for the cafeteria line is designed for the flow of traffic for each lunch period.

(E) Design of kitchen reflects its planned function; e.g., whether for food preparation or warming only.

(F) Space is available for refrigeration and preparation of foods to accommodate maximum number of students planned for the school.

(G) Office, changing, and restroom area for food preparation staff is available and shall comply with local department of health requirements.

(H) Ceiling height allows for clearance of light fixtures for physical education activities.

(2) Administrative Office.

The administrative office shall have sufficient square footage to accommodate the number of staff for the maximum enrollment planned for the school consistent with the master plan for the school district and shall be designed to efficiently conduct the administrative functions, specifically:

(A) Students have direct confidential access to pupil personnel area.

(B) Counter tops are accessible for an age-appropriate population both at a standing and wheelchair level.

(C) Clerical staff have a clear view of nurse's office.

(D) The nurse's office has a bathroom separate from staff bathroom(s) in administration area.

(E) Space for private conference and waiting area is available.

(F) Capability for such computer networking functions as attendance accounting and communicating to each classroom is considered.

(G) A faculty workroom is available for a staff size proportionate to the student population.

(3) Library/Media Center and Technology.

Library space shall be proportional to the maximum planned school enrollment. The size shall be no less than 960 square feet. However, to allow adaptation for changing technology and communication systems, the following is recommended:

—two square feet per unit of a.d.a. (average daily attendance) for elementary;

—three square feet per unit of a.d.a. for middle or junior high (grades 6–8);

—four square feet per unit of a.d.a. for high school. In addition:

(A) Provide security for technology and media equipment.

(B) Space and capability for computer terminals is considered for student use, research and report writing.

(C) Visual supervision from circulation desk is available to study areas, stack space, and student work centers.

(D) Design for open and closed-circuit television, dedicated phone line, electrical outlets for stand-alone computers, and conduit connecting all instructional areas is considered.

(I) Lighting.

Light design shall generate an illumination level that provides comfortable and adequate visual conditions in each educational space, specifically:

(1) Ceilings and walls are white or light colored for high reflectance unless function of space dictates otherwise.

(2) Lights do not produce glare or block the line of sight.

(3) Window treatment allows entrance of daylight but does not cause excessive glare or heat gain.

(4) Fixtures provide an even light distribution throughout the learning area.

(5) Light design follows the California Electrical Code found in Part 3 of Title 24 of the California Code of Regulations.

(m) Acoustical.

Hearing conditions shall complement the educational function by good sound control in school buildings, specifically:

(1) The sound-conditioning in a given space is acoustically comfortable to permit instructional activities to take place in this classroom.

(2) Sound is transmitted without interfering with adjoining instructional spaces; e.g., room partitions are acoustically designed to minimize noise.

(3) The ventilation system does not transmit an inordinate sound level to the instructional program.

(n) Plumbing.

Restroom stalls shall be sufficient to accommodate the maximum planned enrollment and shall be located on campus to allow for supervision.

(1) Refer to Part 5, Title 24, of the California Code of Regulations.

(2) Outdoor restrooms having direct outside access are located in areas that are visible from playground and are easily supervised.

(o) Year-Round Education.

If a school is being planned for multitrack year-round operation, additional space shall be provided for associated needs:

(1) Additional space is available for storage of records for staff for all tracks. Additional storage space for the supplies and projects of off-track students is considered.

(2) Storage and planning space is available for off-track teachers or teachers not assigned to a classroom.

(p) American Disabilities Act.

Schools shall comply with standards established by the American Disabilities Act (Public Law 101–336, Title II).

(q) Child Care Programs.

Schools shall comply with the requirements set forth in Education Code Section 39113.5 regarding plans and specifications for new schools being designed to provide appropriate space to accommodate before-school and after-school child care programs.

(r) Exemptions.

At the request of the governing board of a school district, the State Superintendent of Public Instruction may grant exemptions to any of the standards in this section if the district can demonstrate that the educational appropriateness and safety of a school design would not be compromised by an alternative to that standard.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17047(a), 17251(c), 17310, 51210(g), 51220(d) and 51225.3, Education Code.

HISTORY

1. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment of article heading, repealer and adoption of section heading and text, and amendment of NOTE filed 11–12–93; operative 12–13–93 (Register 93, No. 46).
3. Amendment of subsections (a), (b)–(b)(1), (g)(1)(A), (i)(1)(B), (n)–(n)(1) and (p)–(r), new subsection (i)(4)–(i)(4)(F), and amendment of NOTE filed 10–30–2000; operative 10–30–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14031. Plan Approval Procedures for State-Funded School Districts.

(a) Each state-funded school district shall submit preliminary plans following the standards in Section 14030 including site utilization, elevations and floor plan drawings that describe the spaces and give the square footage and educational specifications to the California Department of Education for approval. Prior to preparation of final plans, the school district shall obtain approval of the preliminary plans from the California Department of Education.

(b) Each state-funded school district shall submit final plans including grading, site utilization, elevation, floor, lighting, and mechanical working drawings and any alterations to the educational specifications to the California Department of Education for approval.

(c) Each state-funded school district shall submit the request for exemption from a standard in Section 14030 of this article, with a description of how the educational appropriateness and safety of a school design would not be compromised by deviation from the standard, to the California Department of Education.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17017.5(c) and 17251(c), Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer and adoption of section heading and text, and adoption of NOTE filed 11–2–93; operative 12–13–93 (Register 93, No. 46).
3. Amendment of section heading, section and NOTE filed 10–30–2000; operative 10–30–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14032. Plan Approval for State-Funded School Districts.

The California Department of Education shall notify the district, the district's architect and the Department of General Services that the preliminary and final plans comply with the standards set forth in Section

14030. Approvals for either preliminary or final plans are in effect for a maximum of two years from the date of signed approval. School districts may request an extension of preliminary or final plan approvals if the time line exceeds one year.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17024, 17070.50 and 17251(c), Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment of section heading and text, and adoption of NOTE filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
3. Amendment of section heading, section and NOTE filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14033. Applicability of Plan Standards to Locally-Funded School Districts.

(a) Locally-funded districts shall use the plan standards set forth in Section 14030.

(b) Locally-funded districts may request assistance from the California Department of Education to review plans and specifications for any new school construction or rehabilitation project.

(c) Locally-funded districts need not submit preliminary and final plans to the California Department of Education.

(d) Locally-funded districts shall prepare documentation of and retain for purposes of a complaint investigation the exemption from the standard in Section 14030 of this article, with a description of how the educational appropriateness and safety of a school design would not be compromised by deviation from the standard. Locally-funded districts may request from the California Department of Education a review of the adequacy of the mitigation measure.

(e) Locally-funded districts shall continue to comply fully with the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 2, Part 23 of the Education Code (The Field Act) and submit all plans and specifications to the Department of General Services, Office of the State Architect for review and approval prior to executing a contract for the construction or alteration of a public school building or expending any public funds for such a project.

NOTE: Authority cited: Sections 17251(c) and (d) and 33031, Education Code. Reference: Sections 17251(d), 17280 and 17365, Education Code.

HISTORY

1. Renumbering of former section 10433 to section 14035 and new section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Repealer of former section 14033 and renumbering of former section 14034 to new section 14033, including amendment of section heading, section and NOTE, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14034. Planning Guides.

The latest edition of The Guide for Planning Educational Facilities, published by the Council of Educational Facility Planners, 29 West Woodruff Avenue, Columbus, Ohio, 43210, may be used as a guide in developing school building plans.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Section 17251(c), Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Renumbering of former section 14034 to section 14033 and renumbering of former section 14035 to new section 14034, including amendment of NOTE, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14035. Abandonment of Inadequate Facilities.

Abandonment of inadequate facilities may be recommended by the California Department of Education to the State Allocation Board for approval when it appears from the estimated cost of structural rehabilitation plus the estimated cost of desirable modernization that the facility would meet the criteria for replacement established by the State Allocation Board.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 16044, 16047, 16104, and 16190 through 16207, Education Code.

HISTORY

1. Renumbering of former section 14033 to section 14035 and adoption of NOTE, filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Renumbering of former section 14035 to section 14034 and renumbering of former section 14036 to new section 14035, including amendment of NOTE, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14036. Integrated Facilities.

In accordance with Education Code Section 17047.5, for school districts constructing classrooms for special education purposes, those classrooms shall be no more physically separated from classrooms constructed for their nonhandicapped peers than those classrooms are from each other; preferably the classrooms are under the same roof and adjacent to the classrooms of their nonhandicapped peers, specifically.

(a) A new school facility is considered integrated if it meets the following criteria:

(1) Classrooms for special education are located in proximity to regular education classrooms in such a way as to encourage age-appropriate interaction among all students.

(2) Whenever possible, if relocatable classrooms are used for special education classes, the ratio of special education relocatable classrooms to permanent special education classrooms is the same as the classroom ratio between relocatable classrooms and permanent classrooms for regular education students.

(3) Side-by-side school sites are not considered integrated.

(b) A waiver to acquire or newly construct a non-integrated facility is recommended by the Advisory Commission on Special Education for approval only if it includes a plan to transition the individuals with exceptional needs to a regular campus setting. The waiver includes a capacity study of the existing special education classrooms in the special education local plan area (SELPA) to verify that no classrooms are available to house the population targeted in the waiver.

(c) The waiver includes justification as to why the non-integrated facility is the only option available on a long-term basis and discusses the feasibility of a short-term lease as an option to new construction or acquisition.

NOTE: Authority cited: Sections 17251(c) and 33031, Education Code. Reference: Sections 17047, 17047.5, 17251(c) and 56000 et. seq., Education Code.

HISTORY

1. Renumbering and amendment of former section 14045 to section 14036 and adoption of NOTE filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Renumbering of former section 14036 to new section 14035 and renumbering of former section 14037 to new section 14036, including amendment of section and NOTE, filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14037. Integrated Facilities.

NOTE: Authority cited: Section 39101(c), Education Code. Reference: Sections 17747, 17747.5, and 56000 et. seq., Education Code.

HISTORY

1. New section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).
2. Renumbering of former section 14037 to new section 14036 filed 10-30-2000; operative 10-30-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 44).

§ 14040. Scope of Article.

NOTE: Authority cited for Article 5: Sections 16044, 16047, 16104 and 16190-16207, Education Code.

HISTORY

1. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer of article heading and section filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14041. Plans.

HISTORY

1. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14042. Justification Procedure.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14043. Approval.

HISTORY

1. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14044. Change Orders.

HISTORY

1. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14045. Abandonment of Inadequate Facilities.

HISTORY

1. Renumbering of former section 14045 to section 14036 filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

§ 14046. Building Area Required to Provide Adequate Facilities for Exceptional Children.

HISTORY

1. New section filed 9-10-71; effective thirtieth day thereafter. Approved by State Building Standards Commission (Register 71, No. 37).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer filed 11-12-93; operative 12-13-93 (Register 93, No. 46).

Subchapter 2. Use of School Buses and School Pupil Activity Buses

Article 1. General Provisions

§ 14100. Scope of Chapter.

This chapter applies to the transportation of pupils enrolled in the public and private schools at or below the 12th grade and to pupils enrolled in schools under the administration of the State Department of Education.

NOTE: Authority cited: Sections 33031 and 39831, Education Code. Reference: Sections 39830 and 39831, Education Code. Issuing agency State Board of Education.

HISTORY

1. New Chapter 2 (Sections 14100-14103, consecutive) filed 5-23-79; effective thirtieth day thereafter (Register 79, No. 21).

§ 14101. Definitions.

(a) School Bus and School Pupil Activity Bus. "School bus" and "school pupil activity bus" means every vehicle so defined by Education Code Section 39830 and Vehicle Code Section 545.

(b) Governing Board. "Governing board," unless the context indicated otherwise, includes county superintendents of schools and every other public and private school authority authorized to provide for the transportation of pupils of the schools referred to in Section 14100.

NOTE: Authority cited: Sections 33031 and 39831, Education Code. Reference: Sections 39830 and 39831, Education Code.

§ 14102. Bus Evacuation Instruction.

Each school year, the governing board shall provide, and require each pupil who is transported from home to school in a school bus to receive, appropriate instruction in safe riding practices and emergency bus evacuation drills.

NOTE: Authority cited: Sections 39831, Education Code. Reference: Section 39830 and 39831, Education Code.

§ 14103. Authority of the Driver.

(a) Pupils transported in a school bus or in a school pupil activity bus shall be under the authority of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for the orderly conduct of the pupils while they are on the bus or being escorted across a street, highway or road. Continued disorderly conduct or persistent refusal to submit to the authority of the driver shall be sufficient reason for a pupil to be denied transportation. A bus driver shall not require any pupil to leave the bus enroute between home and school or other destinations. (b) Governing boards shall adopt rules to enforce this section. Such rules shall include, but not be limited to, specific administration procedures relating to suspension of riding privileges and shall be made available to parents, pupils, teachers, and other interested parties.

NOTE: Authority cited: Section 39831, Education Code. Reference: Sections 39830 and 39831, Education Code. Cross-reference: Section 1217(h) of Title 13, California Administrative Code.

§ 14104. Instructor Certificate Cancellation, Suspension or Revocation: Request and Scope of Hearing.

This section applies to school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificates.

(a) Any state-certified bus driver instructor who has received a notice of cancellation, suspension or revocation from the California Department of Education may, within 20 days of date of service of the notice, submit to the California Department of Education a written request for a hearing. Failure to request a hearing within 20 days shall be considered a waiver of the right to a hearing.

(b) Service of the notice of cancellation, suspension or revocation may be made personally or by mail. Service by mail is effective as of the date the notice is deposited for delivery by the United States Postal Service.

(c) Upon receipt by the California Department of Education of a hearing request, the California Department of Education shall appoint an Instructor Certificate Review Board to conduct the hearing. The Instructor Certificate Review Board shall consist of three members: a Bus Driver Training Program Specialist from the California Department of Education who shall serve as the chairperson; and two members representing school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle drivers, depending upon the rating held by the driver instructor requesting the hearing. The hearing will include a presentation of the California Department of Education's reasons for the cancellation, suspension, or revocation and may include the verbal or written presentation of information by the driver instructor related to the administrative action being proposed. After the hearing, the chairperson of the Instructor Certificate Review Board shall report the findings and recommendations of the review board to the State Superintendent of Public Instruction.

(d) The State Superintendent of Public Instruction (or his or her designee) shall review the findings and recommendations of the Instructor Certificate Review Board, and after reviewing the record, make a decision within 30 days of the hearing concerning the disposition of the action to be taken by the California Department of Education. The decision of the State Superintendent of Public Instruction (or his or her designee) is final.

(e) This section is not applicable to a state-certified bus driver instructor whose commercial driver license, special driver certificate or transit bus driver certificate was canceled, suspended or revoked by the California Department of Motor Vehicles.

NOTE: Authority cited: Section 38165(h), Education Code. Reference: Section 38165, Education Code.

HISTORY

1. New section filed 11-18-96 as an emergency; operative 11-18-96 (Register 96, No. 47). A Certificate of Compliance must be transmitted to OAL by 3-18-97 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 33).
3. New section filed 8-10-98; operative 9-9-98 (Register 98, No. 33).

§ 14105. School Bus and School Pupil Activity Bus (SPAB) Passenger Restraint System Use.

All passengers in a school bus or in a school pupil activity bus that is equipped with passenger restraint systems in accordance with sections 27316 and 27316.5 of the Vehicle Code, shall use the passenger restraint system. All pupils described in subdivision (a) of Education Code Section 39831.5, shall be instructed in an age-appropriate manner in the use of passenger restraint systems required by Education Code Section 39831.5(a)(3). The instruction shall include, but not be limited to, the following information:

(a) Proper fastening and release of the passenger restraint system:

(1) Fastening: To fasten, insert the latch plate (the metal "tongue" attached to one side of the webbing) into the proper buckle (the receptacle that comes out from the "bight" in the back of the seat, a slot in the seat

cushion, or from the side). The latch plate inserts into the buckle until you hear an audible snap sound and feel it latch. Make sure the latch plate is securely fastened in the buckle.

(2) Unfastening: To unfasten, push the buckle release button and remove the latch plate from the buckle. The buckle has a release mechanism that, when manually operated during "unbuckling," breaks the bond and separates the two sections.

(b) Acceptable placement of passenger restraint systems on pupils: Adjust the lap belt to fit low and tight across the hips/pelvis, not the stomach area. Place the shoulder belt snug across the chest, away from the neck. Never place the shoulder belt behind the back or under the arm. Position the shoulder belt height adjuster so that the belt rests across the middle of the shoulder. Failure to adjust the shoulder belt properly would reduce the effectiveness of the lap/shoulder belt system and increase the risk of injury in a collision.

(c) Times at which the passenger restraint system should be fastened and released: Passenger restraint systems shall be used at all times the school bus or school pupil activity bus is in motion except when exempted in subdivisions (e) and (f) of this section.

(d) Acceptable placement of the passenger restraint systems when not in use: When not in use, passenger restraint systems shall be fully retracted into the retractors so that no loose webbing is visible, or stored in a safe manner per the school bus manufacturer's instructions.

(e) This section does not apply to a passenger with a physically disabling condition or medical condition which would prevent appropriate restraint in a passenger restraint system, providing that the condition is duly certified by a licensed physician or licensed chiropractor who shall state in writing the nature of the condition, as well as the reason the restraint is inappropriate.

(f) This section also does not apply in case of any emergency that may necessitate the loading of school children on a school bus in excess of the limits of its seating capacity. As used in this section, "emergency" means a natural disaster or hazard (as determined by the school district superintendent or their designee) that requires pupils to be moved immediately in order to ensure their safety.

NOTE: Authority cited: Sections 33031, 38047.5, 38047.6 and 39831, Education Code. Reference: Sections 38047.5, 38047.6, 39830, 39830.1 and 39831.5, Education Code; and Sections 27316 and 27316.5, Vehicle Code.

HISTORY

1. New section filed 11-9-2004; operative 11-9-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 46).

Subchapter 4. School Buses

NOTE: Authority cited for Chapter 4: Sections 33031 and 39831, Education Code. Reference: Sections 39830 and 39831, Education Code.

HISTORY

1. New Chapter 4 (§§ 14200-14207, 14220-14225, 14240-14254, 14260-14276, 14290-14321, 14339-14358, 14380-14394) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment filed 12-17-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 51).
3. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Repealer of Chapter 4 (Sections 14200-14394, not consecutive) filed 5-23-79; effective thirtieth day thereafter (Register 79, No. 21). For prior history, see Registers 77, No. 39; 77, No. 34; 77, No. 22; 77, No. 4; 76, No. 51; 76, No. 40; 75, No. 52; 75, No. 49; 75, No. 47; 74, No. 48; 74, No. 12; 73, No. 12; 72, No. 40; 71, No. 30; 71, No. 25; 71, No. 5.

Chapter 14. School Finance*

* Note: For fiscal responsibility of County Superintendents.

Subchapter 1. Nonresident Tuition

§ 15000. Definitions Under Education Code Section 37107.

(a) Total Current Expense of Education.

The term "total current expense of education, exclusive of the expense of transportation," as used in Education Code Section 37107, means the total current expense of education for grades 9 through 12 of the district as defined in the California School Accounting Manual. Such expenditures are the current general fund operating expenditures of the school district excluding expenditures for pupil transportation services, food services, community services, and object classifications 6000 and 7000 (except 7250, current expense for "Regional Occupational Centers or Regional Occupational Programs").

(b) Actual Expense of Transportation.

The "actual expense of transportation" is the amount computed, as hereinafter in this section provided, for transportation between home and school of all high school pupils in grades 9 through 12 residing in a county and not in any district maintaining a high school, plus the amount computed, as hereinafter in this section provided, for other than home-to-school transportation for such pupils.

(c) Computation for Home-to-School Transportation.

The amount for transportation of such pupils between home and school shall be computed by using any one or a combination of the following alternate methods:

(1) When one or more vehicles are used to transport between home and school pupils in grades 9 through 12 residing in one county and not in a district maintaining a high school and 90 percent of the pupils regularly so transported in each vehicle are such pupils, the actual expense of such transportation shall be computed by multiplying the number of miles the one or more vehicles traveled to provide such transportation by the average cost per mile of all vehicles operated by the district to transport pupils during the fiscal year.

(2) When one or more vehicles are used to transport between home and school pupils in grades 9 through 12 residing in two or more counties and not in any district maintaining a high school and 90 percent of the pupils regularly so transported in each vehicle are such pupils, the actual expense of such transportation shall be computed by multiplying the miles traveled to provide such transportation by the average cost per mile of all vehicles operated by the district to transport pupils during the fiscal year, and such expense shall be prorated among the two or more counties in the following manner:

(A) The distance measured by the nearest traveled road from the school of attendance to the most distant point in a county to which transportation is provided shall be determined.

(B) A percentage for each county shall be determined by dividing the distance for each county measured as provided in (A) above by the sum of the distances so measured for each county.

(C) The percentage for each county shall be multiplied by the amount to be prorated.

(3) When vehicles are used for the transportation between home and school of pupils in grades 9 through 12 residing in a county and not in any district maintaining a high school and for the transportation between home and school of other pupils, regardless of the respective percentages of the pupils, the actual expense of transportation of pupils in grades 9 through 12 who reside in a county and not in any district maintaining a high school shall be computed by any one of the following methods:

(A) The product obtained by multiplying the average number of pupils per bus transported one way daily by the total miles traveled in providing all transportation between home and school shall be divided into the total expense of providing home-to-school transportation, and the quotient so obtained shall be multiplied by the product obtained by multiplying the number of pupils in grades 9 through 12 residing in a county and not in any district maintaining a high school by the total miles traveled to provide such pupils transportation. When daily records of the number of pupils transported are not kept by a district, the average number of pupils transported for the purposes of this subsection shall be determined by the district by a survey on or about October 1st, December 1st, February 1st, and May 1st by counting the number of pupils transported one way between home and school, designating separately by name those pupils residing in a county and not in a district maintaining a high school.

(B) The product obtained by multiplying 75 percent of the average number of seats in each vehicle operated by the district to transport pupils by the total number of miles traveled by all vehicles in home-to-school transportation shall be divided into the total expense of providing home-to-school transportation, and the quotient so obtained shall be multiplied by the product obtained by multiplying the number of pupils in grades 9 through 12 residing in a county and not in any district maintaining a high school by the number of miles traveled to provide such pupils transportation.

(C) The sum of the miles each pupil was transported between home and school shall be divided into the total expense of transporting all pupils between home and school, and the quotient so obtained shall be multiplied by the sum of the miles each pupil in grades 9 through 12 residing in a county and not in any high school district was transported. When daily records of the miles each pupil is transported are not kept by a district, the sum of the miles each pupil was transported for the purpose of this subdivision shall be determined by the district by a survey on or about October 1st, December 1st, February 1st, and May 1st by measuring the number of miles one way that each pupil is transported between home and school, designating separately by name those pupils residing in a county and not in a district maintaining a high school.

Total expenses of providing home-to-school transportation shall be determined for the purposes of this subsection (3) by multiplying the number of miles traveled in providing such transportation by the average cost per mile to the district in providing all pupil transportation.

(d) Computation for Transportation Other Than Home-to-School.

The amount for providing transportation other than home-to-school transportation for pupils in grades 9 through 12 residing in a county and not in any high school district shall be computed as either (1) that amount which is the same percent of the total expense of providing transportation other than home-to-school transportation as the amount computed for home-to-school transportation is of the total expense of providing home-to-school transportation; or (2) that amount which is the same percent of the total expense of providing other than home-to-school transportation for grades 9 through 12 as the average daily attendance of pupils in grades 9 through 12 residing in a county and not in any high school district is to the average daily attendance of all pupils in grades 9 through 12.

(e) "Expense" Defined.

The term "expense," as used in subsection (b) of this section, means current expenses as defined in Section 15240 of this title.

NOTE: Authority cited for Chapter 1: Section 37107, Education Code.

HISTORY

1. Renumbered from § 199.8 of Art. 22; filed 7-22-69; effective thirtieth day thereafter (Register 69, No. 30). For prior history, see Register 64, No. 25.
2. Amendment of subsections (a) and (e) filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
3. Amendment of subsection (a) and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 2. Budgeting, Accounting, and Reporting

Article 1. Transfer of Funds from the School District General Fund to the Child Development Fund and the Development Center for Handicapped Pupils Fund

§ 15050. Budget Procedure.

The governing board may include in the budget of the school district an amount to be transferred during the fiscal year from the general fund to the child development fund and to the development center for handi-

capped pupils fund sufficient to meet certain expenditures if the expense is authorized or required by law to be paid from the general fund.

NOTE: Authority cited for Chapter 2: Section 41013, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 2 (§§ 15050-15077) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
3. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15051. Order of Governing Board.

Funds may be transferred at any time as ordered by the governing board. Such order shall set forth the purposes for which the funds are to be transferred and the amount estimated or actually required to be expended for each purpose.

§ 15052. Transfers and Refunds.

Such a transfer may be made by warrant or by other authorized procedure of the county. The amount of the transfer shall be charged to the general fund account "7310, Interfund Transfers (Outgoing Transfers)" and credited to the child development fund account or the development center for handicapped pupils fund account, as appropriate, "8930, Interfund Transfers (Incoming Transfers)" as classified in the California School Accounting Manual.

The amount of the refund shall be charged to the child development fund account or the development center for handicapped pupils fund account, as appropriate, "8930, Interfund Transfers (Incoming Transfers)" and credited to the general fund account "7310, Interfund Transfers (Outgoing Transfers)."

HISTORY

1. Amendment filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
2. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Standardized Account Code Structure

§ 15060. Standardized Account Code Structure.

(a) The California School Accounting Manual adopted by the State Board of Education pursuant to Education Code section 41010 shall incorporate a standardized account code structure which is a statewide, uniform financial reporting format (based on the definitions and comprehensive chart of accounts set forth in the California School Accounting Manual). The structure shall be designed to provide a flexible statewide accounting system for local educational agencies to use in budgeting and reporting their revenues and expenditures. The structure shall accommodate local, state, and federal reporting needs as determined by the State Board.

(b) The standardized account code structure shall include, but not be limited to, the following fields:

(1) Fund/Account Group. Each fund is a fiscal accounting entity, with a self-balancing set of accounts recording cash and other resources, all related liabilities and residual equities and balances or changes therein. Fund types include, but are not limited to, Governmental Funds, Proprietary Funds, Fiduciary Funds, and Account Groups.

(2) Project Year. The project year field is used to distinguish the activities of the same grant with different project years within the fiscal year.

(3) Resource (Project/Reporting). The resource field identifies the source of funding and is used for accumulating revenues and expenditures to meet various specialized reporting requirements and tracking categorical activities, such as No Child Left Behind (NCLB) Act, Economic Impact Aid, and School Improvement Program.

(4) Goal (Program). The goal field defines the objective, such as the target population being served or the education mode (e.g., regular education, special education, or vocational education).

(5) Function. The function field describes the activity being performed for which a service or material object is acquired, for example, instructional services, pupil services, and general administration.

(6) Object. The object field describes the service or commodity obtained as a result of a specific expenditure (e.g., salaries, books, and capital outlay).

(7) Site. The site field is optional, providing local educational agencies the ability to designate specific school sites within their individual accounting systems.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 41010, Education Code.

HISTORY

1. New article 2 (section 15060) and section filed 11–4–2003; operative 11–4–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 45).

Article 3. Annual Financial Statements

§ 15070. Submission of Annual Financial Statements.

Except as provided in Section 15071, every county office of education, school district, charter school, and educational joint powers agency (as defined in Education Code section 41023) that elects to use the standardized account code structure, subject to the provisions of Section 39 of Chapter 299, Statutes of 1997, shall submit an annual statement of receipts and expenditures in the format of the standardized account code structure. The form for the annual statement shall be prescribed and amended periodically (to accommodate changes in statute or generally accepted accounting principles for government agencies) pursuant to Education Code sections 1628 and 42100 and shall reflect Section 15060. The form for the annual statement is titled the unaudited Actuals Financial Report, and is incorporated within the Standardized Account Code Structure Financial Reporting Software, version 2003 (revised July 2003) and is available at the following website address: <http://www.cde.ca.gov/fiscal/software/sacs2003all.htm>.

NOTE: Authority cited: Section 33031, Education Code. Reference: Assembly Bill 1578, Section 39, Chapter 299, Statutes of 1977; and Sections 1628, 41010, 41023 and 42100, Education Code.

HISTORY

1. New article 3 (sections 15070–15071) and section filed 11–4–2003; operative 11–4–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 45).

§ 15071. Alternative Form for Submission of Annual Financial Statements by Charter Schools.

(a) Charter schools have the option of reporting their annual financial statements using an alternative form prescribed and amended periodically (to accommodate changes in statute or generally accepted accounting principles for government agencies) pursuant to Education Code section 42100. The alternative form shall be structured for electronic submission of data and is titled the Charter School Unaudited Actuals Financial Report — Alternative Form (new 6/19/03) and is available at the following website address: <http://www.cde.ca.gov/regulations>.

The form shall include the following information:

(1) Revenues. An accounting of all funds received during the preceding fiscal year, including identification of specific details within the major revenue categories of revenue limit sources, federal revenues, other state revenues, and other local revenues.

(2) Expenditures. An accounting of all funds expended during the preceding fiscal year, including identification of specific details within the major expenditure categories of certificated salaries, non–certificated salaries, employee benefits, books and supplies, services and other operating expenses, capital outlay, and other outgo.

(3) Other information. An accounting of additional information including beginning and ending fund balances, other sources and uses, assets, liabilities, and reserves.

(b)(1) The reporting of financial data by charter schools that are established as governmental accounting entities shall reflect the definitions,

and to the extent necessary for accurate financial reporting, the guidance provided in the California School Accounting Manual.

(b)(2) The reporting of financial data by charter schools that are established as nongovernmental accounting entities shall reflect the definitions, and to the extent necessary for accurate financial reporting, the guidance provided in the California School Accounting Manual, except for accounting differences required due to their nonprofit status.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 1628, 41010 and 42100, Education Code.

HISTORY

1. New section filed 11–4–2003; operative 11–4–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 45).

Subchapter 3. Decreases in Average Daily Attendance for Apportionment Purposes Due to Executive Ratios Pupils to Classroom Teachers

Article 1. General Provisions

§ 15100. Purpose.

The Superintendent of Public Instruction deems this chapter necessary for the effective administration of Education Code Sections 41376, 41378 and 41379 and for the determinations thereby required of him in computing apportionments and allowances from the State School Fund.

NOTE: Authority cited for Chapter 3: Sections 41376, 41378 and 41379, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 3 (§§ 15100–15103, 15106, 15110–15112) filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15101. Application and Exemptions.

This chapter applies to regular day classes in kindergarten and grades 1 through 8 maintained by a school district, except classes in:

(a) A school that is the only school maintained by a district and that has less than 101 units of average daily attendance.

(b) A “necessary small school” with less than 101 units of average daily attendance as provided in Education Code Section 41702.

(c) Grades 7 and 8 of a junior high school established and organized as a secondary school by a high school district or unified school district pursuant to Article 5 of Chapter 1 of Part 1 of the Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15102. Combined Grades.

For the purposes of this chapter, any class combining pupils in kindergarten or in any grade or grades 4 through 8 with one or more of grades 1, 2, or 3 shall be considered a class of grades 1, 2, and 3.

§ 15103. Definitions.

For the purposes of administering the provisions of this chapter and the provisions of Education Code Sections 41376 and 41378, the following definitions apply:

(a) “Class” means a group of pupils scheduled to report regularly at a particular time to a particular teacher as opposed to a grade which is a broader segment of the school organization.

(1) Where the type of teaching in kindergarten and grades 1, 2, and 3 is other than in self–contained classes, the “class” is the basic homeroom where all of the following applies for a child:

(A) Attendance is recorded and investigation of absences is instigated.

(B) The child has his desk, locker, or drawer.

(C) The teacher handles the administrative routines such as keeping cumulative records, collecting basic data about the child, distributing items to go home, collecting lunch money, and distributing and collecting report cards.

(D) The teacher is the usual contact with the child's parents.

(E) Some planned instruction is given.

(2) For kindergarten and grades 1, 2, and 3, when it is necessary for a specific group of pupils, consisting of a portion or all of the pupils otherwise enrolled in a "class," to meet together for a particular period or periods during the regular school day for a particular phase of education for which responsibility is assigned to two or more teachers, or for an extra-curricular school activity, such group shall not be considered a "class" under the provisions of this section.

(b) "Regular day class" means a class maintained during the regular school day as defined by the governing board. Classes in special day and evening and summer schools, juvenile hall schools, and classes for the physically handicapped, mentally retarded, severely mentally retarded, educationally handicapped, and mentally gifted are not regular day classes for the purposes of this section.

(c) "Active enrollment" on a day a count is taken means the pupils in enrollment in the class on the first day of the school year on which the class was in session, plus all later enrollees, minus all withdrawals since that first day.

(1) For kindergarten and Grades 1, 2, and 3, a count shall be made on the last teaching day of each school month that ends prior to April 15 of the school year.

(2) For Grades 4 to 8, inclusive, the count shall be made at the end of

the sixth school month. A count of full-time equivalent classroom teachers shall also be made at the end of the sixth school month.

(d) The "number of pupils enrolled" in a class for kindergarten and Grades 1, 2, or 3 means the sum of the numbers determined by all the active enrollment counts made for the class pursuant to (c), divided by the number of such counts made for the class.

(e) The "average number of pupils enrolled per class" for grades 1, 2, and 3 is the number obtained by dividing the sum of the quotients derived under subsection (d) for all classes in those grades, by the number of those quotients. The "average number of pupils enrolled per class" for kindergarten is the number so obtained for all classes in kindergarten.

(f) The "total number of pupils enrolled" for grades 4 to 8, inclusive, means the active enrollment, as defined in subsection (c), in those grades at the end of the sixth school month, exclusive of the active enrollment of pupils in grades 4 to 8, inclusive, in classes considered to be of grades 1, 2, or 3 under Section 15102.

(g) "Classroom teacher" means an employee of the district in a position requiring certification qualifications whose duties require him to teach in regular day classes in any grade of Grades 4 to 8, inclusive, during the regular school year.

(h) One "full-time equivalent classroom teacher" means the period of time the duties under subsection (g) are assigned a classroom teacher

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equal to the total number of hours designated by a governing board as a regular school day. The period of time less than the regular school day for which a classroom teacher is assigned such duties is that fraction of a full-time equivalent classroom teacher which the period of time bears to a full-time equivalent classroom teacher expressed to the nearest one-tenth (0.1).

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Waiver of Class Size Requirements for Kindergarten

§ 15106. Kindergarten Exemption.

Written application for waiver authorized by Education Code Section 41379 shall be directed to the Bureau of School Apportionments and Reports, Department of Education. The application shall be filed by November 1.

Possible reasons for exemption are:

(a) The expense of adding a class or classes and/or the added expense of transporting kindergarten children to another school will cause the district to be unduly burdened with expense. In order to determine this the district shall include the following information:

(1) Beginning balance, exclusive of restricted funds, in the General Fund for the current fiscal year.

(2) Estimated total income in the General Fund for the current fiscal year.

(3) Estimated expenditures and the appropriation for contingencies before costs of adding classes and/or transportation to reduce kindergarten class size.

(4) Number of classes to be added and/or the number of pupils to be transported.

(5) Estimated cost of item 4.

(b) Shifting kindergarten children from one school attendance area to another school in order to balance the class size will cause a child to be traveling undue time in reaching the class to which he is reassigned. In order to determine this the district shall include the following information:

(1) List the children to be reassigned and the length of time each kindergarten child will travel in order to reach reassigned class from his home.

(2) The distance between the schools by the shortest traveled route.

(3) If the reassigned children are to be transported, give the average time for the current kindergarten bus runs in the district.

(c) Requiring kindergarten children to travel from one school attendance area to another school in order to balance class size will expose a child to hazards. In order to determine exemption for this the district shall submit a description of the hazardous condition and how a kindergarten child is endangered by the condition.

HISTORY

1. Amendment of subsection (a)(3) filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 3. School District Reports

§ 15110. Reports by School Districts.

The governing board of each applicable school district shall report information in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction for making the following determinations:

(a) For kindergarten and grades 1 to 3, inclusive (the status for kindergarten to be shown separately):

(1) The number of classes.

(2) The number of pupils enrolled in each class as defined in Section 15104(d).

(3) The average number of pupils enrolled per class as defined in Section 15104(e).

(4) The total of the numbers of pupils which are in excess of the standard in each class in which the number of pupils enrolled exceeds that standard.

(b) For grades 4 to 8, inclusive:

(1) The total number of pupils enrolled.

(2) The number of full-time equivalent classroom teachers at the end of the sixth school month.

(3) The average number of pupils per each full-time equivalent classroom teacher.

Such reports shall be filed with, and at the same time as, average daily attendance reports are required to be filed under the provisions of Education Code Section 41601 for the "second period" report for the Second Principal Apportionment.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15111. Classes Maintained for Less Than the Full "Second Period."

On the report filed pursuant to Section 15110, each class in kindergarten and in grades 1, 2, and 3, maintained for a fewer number of school months than the total number of school months contained in the "second period," as defined in Education Code Section 41601, shall be separately identified. The "number of pupils enrolled" shall be separately ascertained for each class. Whenever the "number of pupils enrolled" in any class is in excess of the standards described in Section 41376 or 41378 the Superintendent of Public Instruction shall, for the purposes of computing the decrease in average daily attendance on account of such excess, modify the factor of 0.97 specified in Education Code Section 41376 by a factor determined by dividing the number of counts made for each class by the number of full school months during the "second period."

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15112. "Ungraded" Classes.

For the purposes of this article, all classes shall be graded in the same manner that classes are required to be graded for the reporting of attendance for apportionment purposes and in accordance with instructions provided on attendance forms furnished by the Superintendent of Public Instruction.

Subchapter 3.5. Class Size Reduction Program Kindergarten – Grade 3

§ 15130. Eligibility for Participation in the Class Size Reduction Program Under Option Two.

For purposes of Option Two, as set forth in Education Code section 52122(b)(2)(B), the reference to Education Code sections 41376 and 41378 shall be interpreted as permitting certificated teachers, including kindergarten teachers, who are assisting in classrooms in which they are not the principal teachers, to be counted for purposes of determining class size to the extent they provide direct instructional services to pupils primarily in reading and mathematics.

NOTE: Authority cited: Sections 33031 and 52125(b), Education Code. Reference: Section 52122, Education Code.

HISTORY

1. New subchapter 3.5 (sections 15130-15133) and section filed 8-29-96 as an emergency; operative 8-29-96 (Register 96, No. 35). A Certificate of Compliance must be transmitted to OAL pursuant to Education Code section 52125 by 2-25-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-29-96 order transmitted to OAL 2-3-97 and filed 3-6-97 (Register 97, No. 10).

3. Amendment of subchapter heading filed 10-15-98 as an emergency; operative 10-15-98 (Register 98, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-16-99 or emergency language will be repealed by operation of law on the following day.

§ 15131. Qualification for Funding.

(a) Education Code section 52124(b)(2) shall not be interpreted as precluding a school district from qualifying for funding for classes at grade 2 at a schoolsite if that school district unintentionally fails to meet the class size reduction requirement for all of its classes at grade 1 at that schoolsite. Similarly, Education Code section 52124(b)(3) shall not be interpreted as precluding a school district from qualifying for funding for classes in kindergarten or grade 3 at a schoolsite if that school district unintentionally fails to meet the class size reduction requirement for all of its classes at grades 1 and 2 at that schoolsite.

(b) When a schoolsite does not serve kindergarten and all of grades 1 to 3, inclusive, but does serve kindergarten or one or more of those grade levels, that schoolsite and every other schoolsite to which it sends pupils or from which it receives pupils in kindergarten or any of grades 1 to 3, inclusive, shall be considered a single schoolsite for purposes of Education Code section 52124(b).

NOTE: Authority cited: Sections 33031 and 52125(b), Education Code. Reference: Section 52124, Education Code.

HISTORY

1. New section filed 8-29-96 as an emergency; operative 8-29-96 (Register 96, No. 35). A Certificate of Compliance must be transmitted to OAL pursuant to Education Code section 52125 by 2-25-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-29-96 order transmitted to OAL 2-3-97 and filed 3-6-97 (Register 97, No. 10).

§ 15132. Appointments to Charter Schools.

(a) A school operated under the Charter Schools Act of 1992 may participate in the Class Size Reduction Program (Education Code sections 52120-52128) and the Class Size Reduction Facilities Funding Program (Education Code sections 17770-17777) either on the basis of its own applications and certifications, or through the applications and certifications of the school district in which it is located.

(b) No charter school that participates in the Class Size Reduction Program or the Class Size Reduction Facilities Funding Program based on its own applications and certifications shall be included in the applications or certifications of any school district.

NOTE: Authority cited: Sections 33031 and 52125(b), Education Code. Reference: Sections 47600-47625, Education Code.

HISTORY

1. New section filed 8-29-96 as an emergency; operative 8-29-96 (Register 96, No. 35). A Certificate of Compliance must be transmitted to OAL pursuant to Education Code section 52125 by 2-25-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-29-96 order transmitted to OAL 2-3-97 and filed 3-6-97 (Register 97, No. 10).

§ 15133. Apportionment of Funds for Class Size Reduction.

(a) The apportionment of each school district under Education Code section 52126 shall be made by the State Superintendent of Public Instruction based upon the school district's application under Education Code section 52123, but shall be adjusted to correct for overpayment or underpayment after the certification pursuant to Education Code section 52124(d) is received from the school district.

(b) Regardless of the amount of the apportionment received under subdivision (a), based upon a school district's application under Education Code section 52123, in no case shall the school district be permitted to retain funds for any class that did not actually meet all of the requirements of the Class Size Reduction Program.

(c) The reduced apportionment made to each school district pursuant to Education Code sections 52126(c)(1)(B) and 52126(d)(1)(B) shall only be applicable if a student enrolling in the school district after February 16, 1998 causes a net increase in a school district's enrollment. If a

net increase in the school district's enrollment does not occur, the school district shall be paid at the rate specified in Education Code section 52126(a) or (b), as appropriate.

(d) The reduced apportionment made to each school district pursuant to Education Code sections 52126(c)(1)(A) and 52126(d)(1)(A) shall not be applicable if a teacher hired by the school district after November 1, 1997 is replacing a teacher who was previously hired for a new class pursuant to Education Code section 52122(d)(1) and (2), but who subsequently resigned from the school district or was placed on leave due to medical or other reasons. If a replacement teacher is hired under these circumstances, the school district shall be paid at the rate specified in Education Code section 52126(a) or (b), as appropriate.

NOTE: Authority cited: Sections 33031 and 52125(b), Education Code. Reference: Sections 52122, 52123, 52124 and 52126, Education Code.

HISTORY

1. New section filed 8-29-96 as an emergency; operative 8-29-96 (Register 96, No. 35). A Certificate of Compliance must be transmitted to OAL pursuant to Education Code section 52125 by 2-25-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 8-29-96 order transmitted to OAL 2-3-97 and filed 3-6-97 (Register 97, No. 10).
3. New subsections (c) and (d) and amendment of NOTE filed 12-1-97 as an emergency; operative 12-1-97 (Register 97, No. 49). Pursuant to Education Code section 52125(b), a Certificate of Compliance must be transmitted to OAL by 6-1-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-1-97 order transmitted to OAL 3-31-98 and filed 5-8-98 (Register 98, No. 19).

Subchapter 3.75. Program to Reduce Class Size in Two Courses in Grade 9

§ 15140. Definitions.

For purposes of administering the Program to Reduce Class Size in Two Courses in Grade 9 also known as Grade 9 Class Size Reduction (Grade 9 CSR), pursuant to Education Code sections 52080 to 52090, inclusive, the following definitions shall apply:

(a) "Certification" means a declaration made by a school district attesting to the compliance of each participating school site with each of the provisions of Grade 9 CSR.

(b) "Class" means an organized group of pupils scheduled to report regularly at a particular time to a particular certificated teacher for the purpose of pursuing a particular course that is designated primarily for pupils in grade 9.

(c) "Course" means an instructional unit of an area or field of organized knowledge, usually provided on a semester, year, or prescribed length of time in the subjects designated as English, mathematics, science, and social studies.

(d) "Enrollment" means the pupils listed on the class rosters for classes participating in Grade 9 CSR. However, an individual pupil may not be included in the count of enrollment in a Grade 9 CSR class for any month until the pupil has actually been in attendance at least once during that month.

(e) "Full-year equivalent enrollment" (FYEE) means enrollment adjusted by the relationship of the number of school days during the school year that designated classes pursuant to Education Code section 52084(a) participated in Grade 9 CSR to the total number of school days in the school year. To determine the FYEE the numerator of the fraction shall be the total number of school days during the school year that the designated classes participated in Grade 9 CSR. The denominator of the fraction shall be the total number of school days in the school year or, as appropriate, the total number of school days in the semester or two trimesters. The resulting percentage shall be rounded to the nearest hundredth of a percent and multiplied by the enrollment as defined in section 15140(d) above.

(f) "Per pupil rate" is the amount established in the Annual Budget Act adjusted annually for inflation pursuant to Education Code section 52086.

NOTE: Authority cited: Sections 33031 and 52084, Education Code. Reference: Sections 52080–52090, Education Code.

HISTORY

1. New chapter 3.75 (sections 15140–15141) section filed 8–1–2005; operative 8–31–2005 (Register 2005, No. 31). For prior history, see Register 99, No. 12.

§ 15141. Certification of Enrollment.

(a) For purposes of certifying pupil enrollment pursuant to Education Code sections 52084 and 52086 and enabling the apportionment of funds pursuant to Education Code section 52086, each participating school district shall submit to the California Department of Education an annual MH–CSR9–A Request for Application (Rev. 01/2005) with an estimate of participant enrollment numbers for the Grade 9 CSR program and, at the end of the school year, the J–9MH–A Report of Enrollment (Rev. 01/2005) with actual participant numbers. Both forms are incorporated by reference into this section. The forms are available at the following website address: <http://www.cde.ca.gov/fg/aa/ca/mhcsr9thgrade.asp>.

(b) For purposes of completing the MH–CSR9–A Request for Application (Rev. 01/2005) and the J–9MH–A Report of Enrollment (Rev. 01/2005), the following definitions shall apply:

(1) “Active Monthly Enrollment” is the average enrollment count for all instructional days of the month.

(2) “Student to Teacher Ratio” means the school–wide average number of students per certificated teacher for all participating Grade 9 CSR classes, regardless of the subject. Each participating school must have a student to certificated teacher ratio no greater than 20 to 1, with no more than 22 pupils in any participating class pursuant to Education Code section 52084(c). Students who are recognized as being in grades 10, 11, or 12, but who are nonetheless enrolled in participating classes are to be included in the total number. The result is rounded to 2 decimal places. A result of 20.49 or less will be rounded down to 20, and a result of 20.50 or greater will be rounded up to 21. Any school with a ratio of 20.50 or greater is not eligible to receive funding.

(c) Both the MH–CSR9–A Request for Application (Rev. 01/2005) and the J–9MH–A Report of Enrollment (Rev. 01/2005) shall be completed in full and submitted to the California Department of Education.

(1) For grade 9 class size reduction the forms shall include:

(A) The designated course or courses, which must be intended primarily for students recognized as being in grade 9.

(B) The student to teacher ratio as defined in section 15141(b)(2) above.

(2) For grades 10, 11, and 12, inclusive, class size reduction, pursuant to Education Code section 52084(g), the forms shall include:

(A) The district–wide designated grade level and the designated course.

(B) The number of classes at each school and the total number of classes in the participating school district for the designated course.

(C) The number of pupils enrolled in classes at each school and the total number of pupils enrolled in all classes in the participating school district for the designated course.

(d) In apportioning funds pursuant to Education Code section 52086, school district funding is calculated by multiplying the FYEE by the per pupil rate at each participating school. Maximum funding for one course may not exceed the total 9th grade student enrollment as reported in the California Basic Educational Data System (CBEDS) multiplied by the per pupil rate or, for two courses, two times the 9th grade student enrollment as reported in CBEDS multiplied by the per pupil rate. While a school may receive funding for non–ninth graders in grade 9 CSR classes, at least 50 percent of those enrolled in participating classes must be ninth graders.

NOTE: Authority cited: Sections 33031 and 52084, Education Code. Reference: Sections 52084 and 52086, Education Code.

HISTORY

1. New section filed 8–1–2005; operative 8–31–2005 (Register 2005, No. 31). For prior history, see Register 99, No. 12.

Subchapter 4. Reduction in State Support Due to Excessive Administrative Employee to Teacher Ratio

Article 1. General Provisions

§ 15150. Purpose.

The Superintendent of Public Instruction deems this chapter necessary for the effective administration of Education Code Sections 33151, 33154, 41404, and 41404.5, and for determinations thereby required of him in computing apportionments and allowances from the State School Fund.

NOTE: Authority cited for Chapter 4: Sections 33151, 33154 and 41404.5, Education Code. Issuing agency: Superintendent of Public Instruction.

[The next page is 184.5.]

HISTORY

1. New Chapter 5 (Sections 15150, 15151, 15158, and 15160) filed 5–25–73; effective thirtieth day thereafter (Register 73, No. 21).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15151. Definition.

For purposes of administering this chapter and the provisions of the Education Code Section 41404.5, an "unusual circumstance" will be deemed to exist in any single year when:

(a) A district employs nonteaching certificated personnel to manage a program available to one or more other districts on a contractual basis, or

(b) A district experiences a decline in pupil enrollments that results in a reduction in the number of teaching employees that cannot be matched by a corresponding reduction in the number of administrative employees before the November 1 reporting date due to existing contractual obligations, or

(c) A district participates in categorically federally funded programs that require the employment of program coordinators or project directors out of proportion to the number of teachers employed in the programs.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Waiver of Full-Time Equivalent Administrative Employees

§ 15158. Administrative Employee Exemption.

The written application of the school district governing board for waiver in accordance with Education Code Section 41404.5 shall be directed to the Bureau of School Apportionments and Reports, State Department of Education. The application shall be filed on or before December 1st. The application shall detail the unusual circumstances existing in the district, and in addition, shall include the following information:

(a) Beginning balance, exclusive of restricted funds, in the general fund budget for the current fiscal year.

(b) Estimated total income in the general fund budget for the current fiscal year before the penalty for excessive administrative employees is applied.

(c) Estimated expenditures and the appropriation for contingencies.

HISTORY

1. Amendment of subsection (c) filed 6–7–74; effective thirtieth day thereafter (Register 74, No. 23).
2. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Article 3. School District Reports

§ 15160. Reports by School Districts.

In addition to the information required by Education Code Section 33151, districts shall annually report on forms furnished and prescribed by the Superintendent of Public Instruction:

(a) The annual amount budgeted for the salaries of the full-time equivalent administrative employees reported.

(b) The total state income included in the district's general fund budget for the current fiscal year.

(c) The total income included in the district's general fund budget, excluding the beginning balance, for the current fiscal year.

(d) The amount included in the district's general fund budget for "outgoing transfers" for the current fiscal year. The report of the number of full-time equivalent personnel shall include all persons employed by the district as of November 1st.

Subchapter 4.1. Reimbursement for Costs of Education for Institutional and Family Home Children

§ 15180. Application for Program Approval.

(a) Each school district or county superintendent of schools desiring to establish and maintain a special educational program authorized by Education Code Section 42904(c) shall first make an annual application to the Superintendent of Public Instruction for approval. Each application shall be filed in a form and by a date prescribed by the Superintendent of Public Instruction.

The application shall include, but is not limited to, the following:

(1) A description of the instructional program.

(2) A description of instructional and general support services.

(3) A description of the relationship of the special educational program to all similar programs that are categorically funded in the district or county office, and

(4) A budget and determination of funding services.

(b) As a condition of approval, the Superintendent of Public Instruction may require one or more of the following:

(1) A minimum number of pupils enrolled.

(2) Development and filing of a needs assessment.

(3) A minimum and maximum expenditure per pupil.

(c) The Superintendent of Public Instruction shall notify the appropriate County Superintendent of Schools in whose jurisdiction a school district application is approved.

NOTE: Authority cited for Chapter 4.1 (Sections 15180–15188): Sections 42904 and 42911, Education Code. Reference: Sections 42902–42911, Education Code.

HISTORY

1. New Chapter 4.1 (Sections 15180–15188) filed 6–26–78; effective thirtieth day thereafter (Register 78, No. 26).

§ 15181. Entitlement.

A district or county superintendent is entitled to reimbursement pursuant to Education Code Sections 42904 and 42905 with respect to any pupil served who resides in either:

(a) A regularly established licensed children's institution,

(b) A hospital operated by a county,

(c) A nonprofit tax-exempt hospital or other nonprofit tax-exempt treatment facility,

(d) An institution,

(e) A foster or family home only if pursuant to a commitment or placement under Chapter 2 (commencing with Section 200, of Part I of Division 2 of the Welfare and Institutions Code.

(f) A home which legally qualifies as an established licensed children's institution. Reimbursement shall not be denied on account of any pupil solely because his or her prior residence was in the same school district in which the institution, hospital, facility or home, in which he or she presently resides, is located.

§ 15182. The Special Educational Program.

(a) Special educational programs provided under Education Code Section 42902, for which excess cost is reimbursable under Education Code Section 42904(c), are only those programs which are in addition to any other federal or state categorical aid programs.

(b) The special educational program shall contain at least one of the following:

(1) Liaison between the school and the public agencies, foster parents, and community and other school programs.

(2) Tutoring in basic skills and remedial assistance.

(3) Counseling.

(4) Educational and vocational planning and assistance.

(5) Any other element approved by the Superintendent of Public Instruction.

§ 15183. Determination of Local Property Tax Share.

(a) The local property tax share of the revenue limit is determined by subtracting, from the total revenue limit authorized by the governing board of the district (exclusive of the reduction for institutional or family home reimbursement received), all of the following:

- (1) State basic aid.
- (2) State equalization aid.
- (3) State guaranteed yield program (GYP) aid.
- (4) No loss state aid because of separate adult revenue limit, and
- (5) Equalization aid offset tax income and open space land subventions. The remainder is then divided by the local average daily attendance allowed for revenue limit purposes. This determination will be made as recalculated from the second period apportionment. The total amount determined for reimbursement purposes shall be deducted from the district revenue limit in the year in which the reimbursement is received.

(b) The local property tax share of the excess cost of maintaining schools and classes for physically handicapped (PH), mentally retarded (MR) or educationally handicapped (EH) pupils is determined by subtracting, from the total allowed expenditures for PH, MR, and EH programs on the Special Education Cost Data Sheet, all of the following:

- (1) The revenue limit per average daily attendance authorized by the governing board of the district (exclusive of the adjustment for institutional or family home reimbursement), and
- (2) State and federal special education allowances for those PH, MR and EH programs.

§ 15184. Determination of Excess Cost.

The excess cost of providing special educational programs for pupils residing in an institution or a family home is determined by subtracting all state and federal special allowances per average daily attendance for those programs from the total allowed income per pupil as approved by the State Department of Education for those programs.

The sum of the excess cost plus state and federal allowances for the programs shall not exceed an amount per unit of average daily attendance as determined by the Superintendent of Public Instruction pursuant to Section 15185. Districts that provided special educational programs for such pupils during the 1976–77 fiscal year shall receive no less than the reimbursement received per average daily attendance for the 1976–77 programs, such reimbursement being provided for by a county-wide tax levied during the 1977–78 fiscal year.

§ 15185. Determination of Total Allowable Income per Pupil.

The total allowable income per pupil, exclusive of the provisions of Education Code Section 42905 for programs allowed under Education Code Section 42904(c), is determined annually by the Superintendent of Public Instruction. The amount determined shall be no less than 30% nor more than 60% of the average per pupil expenditure, excluding categorical funds, in the schools in California.

§ 15186. Revenue Limit.

The revenue limit as used in Education Code Section 42904 is the total revenue limit authorized by the governing board of the district, exclusive of the adjustment for institutional or family home tuition.

§ 15187. Claims and Audits.

The county superintendent of schools:

- (a) Shall require that reimbursement claims be submitted on forms prescribed by the Superintendent of Public Instruction.
- Shall require the school district to maintain a list of all pupils enrolled in the program for which reimbursement is claimed.
- (c) Shall audit, as deemed necessary, any school district's records to determine the accuracy of reimbursement claimed, and
- (d) Shall not authorize reimbursement for any special educational programs not approved by the Superintendent of Public Instruction.

§ 15188. Notices.

On or before July 31 of every year, each county superintendent of schools shall inform every known person, association, corporation and public agency within the superintendent's county who maintains or conducts a children's institution or engages in referring children to family homes, of the reporting requirements in Education Code Section 42903.

Subchapter 5. Allowances for Pupil Transportation*

*For Regulations relating to construction, design, equipment, and operating of school buses, see Division 13, Chapter 4, School Buses.

Article 1. Definitions

§ 15240. Current Expenses.

"Current Expenses" for pupil transportation include all expenditures, except for capital outlay, made by a school district during a fiscal year in providing authorized pupil transportation. Such expenditures shall be those recorded direct costs of transportation under the Support Service Programs as defined in Part I of the California School Accounting Manual.

Cost of equipment and supplies purchased but not used during the fiscal year for pupil transportation purposes is not a "current expense."

NOTE: Authority cited for Chapter 5: Section 41853 and 41855, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 5 (§§ 15240–15244, 15246–15249, 15253–15257, 15260, 15261, 15270–15273, 15280–15285, 15320–15325, and 15340–15343), filed 12–18–69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment filed 6–7–74; effective thirtieth day thereafter (Register 74, No. 23).
3. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15241. Minimum Transportation Distances.

For the sole purpose of determining the total current expense for transportation of a district on which reimbursement is based, the following minimum transportation distances, measured from the point a pupil boards a bus at a regularly established stop to the school of attendance by the shortest traveled road, are set for normal pupils.

For pupils attending kindergarten or grades 1, 2, or 3—three-fourths (3/4) mile.

For all other pupils attending an elementary school—one (1) mile. For all pupils in grades 7, 8, or 9 attending a separately maintained three-year junior high school—one (1) mile.

For all pupils in grades 9, 10, 11, or 12 attending a four-year junior high school or a high school—two (2) miles.

For all pupils in grades 13 or 14 attending a junior college—three (3) miles.

§ 15242. Excessive Distances and Relatively Few Pupils.

For the purposes of Section 41855 of the Education Code, "excessive distances" traveled to transport "relatively few pupils" (sparsity) and expense due to travel for excessive distances, are as follows:

(a) All miles traveled on each bus route both outgoing and incoming in excess of ten miles from the school terminal and on which route the number of pupils transported does not exceed the number of miles required to be traveled one way. The expense due to travel for excessive distances is the product of the cost per mile as entered in item C, column 5 on Form No. J–141, and the number of miles determined to be excessive.

(b) All miles traveled on a feeder route, the furthestmost point of which is more than ten miles, by the routes traveled, from the school terminal, and connects to a primary route for transfer of students. The expense due to travel for excessive distances is the product of the cost per mile as entered in item C, column 5 on Form No. J–141 and the total miles traveled on the feeder route.

(c) All expense incurred by a school district for payments to parents or guardian living in the district in lieu of transportation (Education Code Section 39806), is expense due to excessive distances if eligibility is established under either (a) or (b) above.

(d) All expense incurred by a school district for payments for board and lodging for pupils whose parents or guardian live in the district (Education Code Section 39807) shall be considered as expense due to travel for excessive distances.

HISTORY

1. Amendment filed November 30, 1971; effective thirtieth day thereafter (Register 71, No. 49).
2. Amendment of section and repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15243. Physically Handicapped Minors.

The definitions contained in Section 3600 for deaf, severely hard of hearing, blind, partially seeing, aphasic, and orthopedic or other health impaired minor and pupil handicapped in mobility apply with respect to allowances for transportation required by Education Code Sections 41863, 41864, 41866.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15244. Bus.

As used in this chapter, "bus" means school bus.

Article 2. Classification of School Bus Fleets for Transportation Allowance Purposes

§ 15246. Definition.

In this article, "the average number of hours per day school buses are operated" means the number of hours accumulated between the time when the buses depart from the location in which they are customarily stationed when not in use, and the time when the buses are returned there at the end of the day, (excluding the time when the buses are not in use between trips) divided by the total number of days buses are operated during the regular school term.

§ 15247. Establishment of School Bus Fleet Classes.

As a basis for determining expenditures upon which allowances shall be computed, 16 classes of school bus fleets for districts are hereby established.

The 16 classes are as shown in the following schedule, wherein capital letters indicate the average number of hours of bus operation per day, and Roman numerals indicate the average size of buses so operated:

<i>Average hours of bus operation per day</i>				
	A	B	C	D
<i>Average size of buses in number of rows</i>	<i>Less than 4 hours</i>	<i>4-5 hours</i>	<i>6-7 hours</i>	<i>8 or more hours</i>
I. Less than 7 rows	A-I	B-I	C-I	D-I
II. 7-8 rows	A-II	B-II	C-II	D-II
III. 9-10 rows	A-III	B-III	C-III	D-III
IV. 11 or more rows . . .	A-IV	B-IV	C-IV	D-IV

§ 15248. Emergency Affecting Normal Classification: Exemption.

When, because of a temporary emergency, a district has used additional school buses or increased the hours of operation, or both, and inclusion of the additional buses and hours in computation of its school bus fleet classification would result in a classification other than the expected normal, the school district may request an exemption excluding the additional buses and hours of operation from such computation. The request for exemption shall be submitted to the Superintendent of Public Instruction not later than June 30 of the fiscal year in which the emergency occurred. If the Superintendent of Public Instruction determines that a temporary emergency did exist and that the changes in operational procedure were

necessary to continue to provide a safe and efficient transportation system, he may approve the exemption.

§ 15249. Median Average Cost.

For each of the 16 classes of districts, the Superintendent of Public Instruction shall annually ascertain the median of the average cost per bus per day. This determination shall be based upon the cost per bus per day for each district in the class that has requested a transportation allowance in its then current "Annual Report of Transportation Expense," weighted by the number of vehicles operated by that district.

Article 3. Records and Available Information (All Districts)

§ 15253. Available Information.

Each school district furnishing transportation shall have available the following information for immediate inspection, or submission to the Superintendent of Public Instruction if required:

(a) A statement of policy adopted by the governing board that governs the operation of the pupil transportation system in the district, including the limits within which transportation is offered to pupils and the distance pupils are required to walk to school or to a regularly established bus stop.

(b) A map of the district indicating each bus route and each bus stop, or a route schedule indicating the itinerary of the bus route and each bus stop to be accompanied by a district map on which routes may be identified.

(c) A list of salaries paid for supervision, clerical, or administrative purposes.

(d) A schedule of classes to indicate double sessions or irregularities that might require extra transportation.

(e) A listing of trips made other than between home and school by each bus indicating miles traveled and pupils transported.

§ 15254. Identification of School Buses.

Each school district shall maintain records identifying each school bus owned by the district, and each school bus owned by a contractor that provides pupil transportation for the district.

§ 15255. Record of Normal Pupils Transported.

(a) Each school district shall maintain records for each school bus that will clearly show the number of normal pupils transported between home and school who board the bus at a regularly scheduled stop:

(1) Within the minimum transportation distances specified in Section 15241.

(2) Beyond such minimum transportation distances.

(b) The number of pupils so boarding the bus is ascertained by one of the following methods:

(1) The average of an actual daily count.

(2) The average of an actual count on four normal school days occurring on or about October 1, December 1, February 1, and May 1.

§ 15256. Records of All Pupil Transportation Expenses.

Each school district shall maintain records of all expenses in connection with pupil transportation. These include, but are not limited to, records of the following expenses:

(a) Expenses of Transporting Exceptional Children.

All expenses for the transportation of physically handicapped, mentally retarded, and educationally handicapped minors shall be recorded by category.

(b) Actual Cost of Clerical, Supervision, and Administrative Services.

Actual costs of supervision, clerical, or administrative services shall be recorded only to the extent that one or more employees designated by name have been given regular assignment by the governing board or the chief administrative officer to such duties in connection with the operation of pupil transportation. Such expenditures shall be recorded as direct costs of transportation under the Support Service Programs as defined in Part I of the California School Accounting Manual. In each case, the expenditures so shown shall include only that prorated portion of salaries

or wages for time actually spent for that purpose. Full salaries or wages shall not be recorded unless full time is devoted to pupil transportation exclusively.

(c) Expense for Insurance.

These records shall show the amount of insurance carried for pupil transportation purposes as to type and amount of coverage, and the annual expense for such insurance.

HISTORY

1. Amendment of subsection (b) filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
2. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15257. Records of Receipts for Service and Sales.

Each school district shall maintain records of all payments received for:

- (a) Sale of any equipment or supplies.
- (b) Transportation provided to other school districts and other parties.

Article 4. Additional Records and Available Information (Districts Maintaining Own Transportation System)

§ 15260. Available Information.

Each school district operating its own system shall have available the following information for immediate inspection, or submission to the Superintendent of Public Instruction if required:

(a) A statement of how gasoline, oil, and other supplies are purchased and stored, and if equipment other than school buses use supplies from the same storage facilities.

(b) A statement of how repairs are made to buses, how charges are made, and how separated if only general shop charges or total billing system is used.

(c) A schedule of driver's salary, time worked, and if driver is paid for other services, how much, and from which object classification of the budget.

(d) A schedule of salaries for personnel engaged in the maintenance and repair of buses and how salaries are prorated if work other than on school buses is done by the same personnel.

(e) A listing of accessories replaced and identified by item, bus, and cost.

HISTORY

1. Amendment of subsection (c) filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
2. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15261. Record of Transportation Expense.

Each school district operating its own system shall maintain records which will show:

(a) Items of Expense.

All expenses for the following items: gasoline, oil, grease, repairs to school buses, maintenance supplies, replacement of buses, replacement of accessories, salaries and wages of school bus drivers, salaries and wages for upkeep of buses, insurance authorized by law, and all other expenses in connection with the operation and maintenance of pupil transportation.

(b) Capital Outlay.

All expenses of capital outlay, including all new equipment, for pupil transportation shall be identified by each item and date of acquisition.

(c) Expense of Replacement.

The record shall show the original expense incurred for each item being replaced as well as the portion of the cost of the new item which has been charged to replacement and the portion which has been charged to capital outlay.

(d) For Each School Bus Operated.

(1) All expenses for supplies, maintenance, and repairs.

(2) Miles traveled by the bus in transporting pupils.

(A) Between home and school.

(B) Other than between home and school.

Article 5. Reports

§ 15270. Annual Report.

Each school district shall submit an "Annual Report of Pupil Transportation Expenses" (Form No. J-141) to the Superintendent of Public Instruction at such time as he may require and in accordance with instructions thereon. The report shall be accompanied by documents relating to the following items, as described:

(a) Insurance.

A schedule and certificate of insurance, using Form J-141-A, certified to by the insurance agent or company and by the governing board of the district, or its authorized agent.

(b) Buses Replaced.

A report, using Form J-142, on each school bus replaced during the fiscal year, or during a prior fiscal year for which the district will be eligible for a replacement allowance.

(c) Use for Community Recreation.

A statement with respect to transportation, if any, furnished for purposes of community recreation as provided in Education Code Section 39835 that contains the following information:

(1) The total number of buses so used.

(2) Identification of each bus.

(3) The purchase price paid for each bus, less the value of items required by Section 15272 to be deducted.

(4) The total miles traveled under district ownership by each bus during the school year.

(5) The total miles traveled during the school year by each bus under district ownership for the aforesaid purposes.

(d) Use for Out-of-State Transportation.

A statement, with respect to out-of-state transportation, if any, furnished pursuant to Education Code Section 16861 that contains the following information:

(1) The facts specified in subsections (c)(1)-(c)(5).

(2) The general route, including destination, of each bus used on such out-of-state transportation.

(e) Reason for Exceeding 125% of Median.

A statement, with attached vouchers, justifying any expenditures for necessary replacement of the engine or necessary major overhaul whenever they caused the district to exceed 125% of the median average cost described in Section 15249.

HISTORY

1. Amendment of subsection (c) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15271. Exclusion from "Annual Report" (J-141) of Expense for Physically Handicapped and Mentally Retarded Pupils Coming Within Education Code Section 56515.

The expense and related data for vehicles, and the vehicles themselves, shall not be reported on the "Annual Report of Transportation Expenses" (Form No. J-141) if the vehicles are used exclusively for any or all of the following purposes:

(a) Transporting to special day classes the blind, deaf, aphasic, cerebral palsied, orthopedically handicapped, and other physically handicapped minors handicapped in mobility.

(b) Transporting to integrated programs of instruction as defined in Education Code Section 41864, the blind and the deaf.

(c) Transporting pupils impaired in vision or hearing to another district or to the California School for the Deaf or Blind for specialized instruction.

(d) Transporting physically handicapped pupils impaired in mobility who are deemed eligible for special class placement who have been de-

clared eligible for such transportation by the Superintendent of Public Instruction.

(e) Transporting to special training schools and classes mentally retarded pupils who come within Education Code Section 56515.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15272. Report of School Bus Purchase.

Each school district shall annually report to the Superintendent of Public Instruction on Form No. J-143 data on each school bus purchased during the fiscal year. The cost of equipment and accessories not required by law or regulations governing pupil transportation shall be separately stated and deducted from the total cost of the bus.

§ 15273. Other Reports.

Each school district shall submit other reports as the Superintendent of Public Instruction may require.

Article 6. Review and Approval of Expenditures

§ 15280. Scope of Article.

This article applies to the review and approval by the Superintendent of Public Instruction of all current expenses upon which allowances are computed.

§ 15281. Limitation on Current Expenses.

In the determination of total current expenses for pupil transportation, no amount will be allowed in excess of the expenses recorded as direct costs of transportation under the Support Service Programs as defined in Part I of the California School Accounting Manual.

HISTORY

1. Amendment filed 6-7-74; effective thirtieth day thereafter (Register 74, No. 23).
2. Repealer of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15282. Deductions of Payments Received.

There shall be deducted from total current expenses as defined in Section 15240:

- (a) Payments received from other districts and other sources for transportation of pupils.
- (b) Payments received for charges required under Education Code Sections 39836 and 39837.

§ 15283. Deductions for Certain Expenses and for Depreciation.

For purposes of approving total transportation expense, there shall be deducted from total current expenses:

- (a) Expenditures for the following items:
 - (1) Transportation of exceptional minors defined in Section 15243.
 - (2) Out-of-state, community recreation, and other transportation, i.e., other than between home and school.
 - (3) Transporting children within the minimum distance if their number exceeds 1/10 of the number who board a bus beyond that distance. The amount of deductions for those pupils who are in excess of such 1/10 is determined as follows:

$$\left. \begin{array}{l} \text{Total transportation} \\ \text{expense for normal} \\ \text{children} \end{array} \right\} \left\{ \begin{array}{l} \text{The number of} \\ \text{such excess} \\ \text{pupils} \end{array} \right\} \times \left\{ \begin{array}{l} \text{Transportation} \\ \text{cost per normal} \\ \text{pupil each year} \end{array} \right\}$$

- (4) Bus rental in an amount that exceeds 1/15 of the average purchase price described in Section 15323(b).

(b) Expense of Transportation of Pupils Other than Home-to-School. This deduction is the amount of the actual expense if the actual expense can be readily identified in the district's records.

Otherwise, the deduction is the following amount: The cost per mile for the operation of all buses used to provide pupil transportation (wheth-

er for normal or exceptional pupils, as the case may be) multiplied by the number of miles traveled in providing transportation for such pupils other than between home and school.

(c) Depreciation of a school bus due to the travel listed in this subsection (c). The depreciation for each type of travel shall be determined by the following formula wherein "miles" means miles the bus traveled in the fiscal year:

$$\frac{\begin{array}{l} \text{Cost of bus less value of items} \\ \text{required by} \\ \text{Section 15272 to be} \\ \text{deducted} \end{array}}{12} \times \frac{\begin{array}{l} \text{Miles for a purpose} \\ \text{specified in (1), (2),} \\ \text{or (3)} \end{array}}{\text{Total miles under} \\ \text{district ownership}}$$

Travel on which depreciation is deducted is community recreation travel pursuant to Education Code Section 39835.

HISTORY

1. Amendment of subsection (c) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15284. Expenditures Exceeding 125% of the Median.

Except as provided in this section, the Superintendent of Public Instruction shall not compute allowances upon expenditures of a district for which the average cost per bus per day for the class of district to which the district belongs exceeds 125% of the median as determined in Section 15250. If expenditures which exceed that percentage were caused by necessary replacement of the engine, or a necessary major overhaul, of one or more school buses, expenditures so caused may be allowed in addition to the aforesaid percentage.

§ 15285. Maximum Allowable for Excessive Distances.

No amount computed for excessive distances defined in Section 15242 shall be approved which, when added to the amounts computed under Education Code Sections 41857 and 41858, exceed the approved current expense as reported in Item D.1 of Form No. J-141.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 7. Replacement of School Bus and Replacement Allowances

§ 15320. Disposal of Replaced Bus.

Certification will be required on Form No. J-142, "Report of Replaced School Bus," that the governing board has disposed of the replaced bus in accordance with Education Code Sections 39520, 39521, and 39523. The actual money received in the disposal of the bus shall be entered as "sales value" on the application for replacement allowance.

§ 15321. Replacement.

(a) Replacement is considered completed when the replaced bus has been disposed of and the new bus has been delivered to the district. Applications for replacement allowance will be filed for the fiscal year in which the replacement has been completed, and if allowed, reimbursement will be made during the next fiscal year. If the replaced bus remains in the possession of the district for a portion of the fiscal year following the delivery of the new bus, such replaced bus to be eligible for replacement allowance must be discontinued in use for pupil transportation purposes until disposed of or until converted for uses other than pupil transportation.

Repurchasing, renting, or leasing the vehicle back from the purchaser will void all reimbursement allowances granted under Sections 15323 and 15324 of this code.

(b) The Superintendent of Public Instruction may approve for reimbursement purposes the replacement of school buses on a two-for-one basis if he determines that the efficiency of operation of the transportation system will be increased, or that the operational costs will be decreased by such replacement. The approval shall be subsequent to and justified by a review of the district's transportation system including but

not limited to fleet size, routes, pupils transported and related current expense of operation. In no instance will the combined reimbursement exceed the approved costs of the new vehicle(s).

§ 15322. Replacement of More than One Small Bus in Certain Unified School Districts.

During the first five years of existence for all purposes of a unified school district formed under the provisions of Article 1 or Article 2 of Chapter 2 of Part of the Education Code, the Superintendent of Public Instruction may approve the replacement of more than one small bus with a single larger unit if he determines that the efficiency of operation of the transportation system will be increased or that operational costs will be decreased by such replacement. The approval shall be subsequent to, and justified by, a review of the district's transportation system including fleet size, schools, routes, pupils transported, and related current expense of operation.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15323. Allowance for Expense of Replacing a Class 1 School Bus.

(a) The Superintendent of Public Instruction shall not approve, as a basis for computation of financial allowances for reimbursement of replacement expenses incurred by a school district for replacement of a class 1 school bus, expenditures which exceed the lesser of the following amounts:

(1) The difference between the purchase price of the bus paid by the district, subject to the provisions of Section 15272, and the amount received by the district for the sale, insured loss, or credit for the trade-in, of the bus.

(2) The amount computed by multiplying the "average purchase price" of the bus, as defined by subsection (b) hereof, by the percentage shown in the following schedule for the total number of years of service rendered by the bus as a school bus in the service of the district, or, in the case of a used school bus, the total number of years of service rendered for the district and for a prior owner or owners:

SCHEDULE

Total years of service	Percentage for computing replacement expense	Total years of service	Percentage for computing replacement expense
1	0	11	73
2	0	12	78
3	5	13	85
4	11	14	92
5	18	15	100
6	26	16	105
7	35	17	110
8	45	18	115
9	56	19	120
10	68	20	125

(b) The "average purchase price" of a bus purchased during any fiscal year means the quotient resulting from dividing the purchase price paid for, by the number of, all new Class 1 school buses having a like number of rows of seats which were purchased by all districts during that fiscal year. The value of items required by Section 15272 to be deducted shall be excluded from the purchase price. The Superintendent of Public Instruction shall furnish to school districts a list of such "average purchase prices."

§ 15324. Allowances for Expense of Replacing Class 2 School Buses.

The Superintendent of Public Instruction shall not approve, as a basis for computation of financial allowances for reimbursement of replacement expenses incurred by a school district replacing a Class 2 bus, expenditures which exceed the lesser of the following:

(a) The difference between the purchase price of the bus paid by the district, subject to the provisions of Section 15272, and the amount of

money received by the district for the sale, or credit received for the trade-in, of the bus.

(b) The difference between the purchase price of the bus paid by the district, subject to the provisions of Section 15272, and the value of the bus at the date of application for allowance, as such value is shown in any published used-automobile wholesale value guide in general use in California selected by the Superintendent of Public Instruction.

§ 15325. Adjustment for Use in Other Than Home-to-School Transportation.

(a) Types of Transportation.

For the purposes of this section, miles traveled under district ownership by all buses owned by a district on the date of application for replacement allowance are divided as follows:

(1) Home-to-school transportation.

(2) Community recreation under Education Code Section 39835.

(3) Other transportation.

(b) Reduction.

The replacement allowance approved for a school bus shall be reduced if the total miles traveled by all of the buses for the purpose of subsection (a)(4) exceed 20 percent of the total miles traveled by all of the buses for the purposes of subsections (a)(1) and (a)(4).

(c) Amount of Reduction.

The reduction shall be in an amount which is the same percentage of the approved replacement expense as the excess mileage is of the total miles traveled under district ownership by all of the buses for the purposes of subsections (a)(1) and (a)(4).

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 8. Newly Formed Unified School Districts

§ 15340. Notification.

A unified school district eligible for current expense allowance under Education Code Section 41857 and/or capital outlay allowance under Education Code Section 41860 shall notify the Superintendent of Public Instruction by letter of its intentions to apply for such allowances on or before May 1 of the fiscal year preceding the year in which such allowances, if approved, will be made.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15341. Inclusion in Annual Report.

Upon proper approval given by the Superintendent of Public Instruction, the expenses may be included on the Form No. J-141, "Annual Report of Transportation Costs." The Superintendent of Public Instruction shall determine the actual expense required because of a change of the location of schoolhouses or the reorganization of attendance centers.

§ 15342. Maximum Allowance for Capital Outlay.

The maximum allowance for capital outlay expense shall be the lesser of the following:

(a) The actual cost of the bus or buses required.

(b) An amount determined by dividing the number of pupils requiring transportation by the capacity of the bus plus 25 percent, multiplied by the actual cost of the bus.

§ 15343. Maximum Allowance for Current Expense.

The maximum allowance for current expense required because of a change in location of schoolhouses or the reorganization of attendance centers shall be determined by multiplying the actual mileage that the bus or buses are required to travel in transporting pupils from closed schools or to reorganized attendance centers by the average expense per mile for bus operation in the district.

Subchapter 6. Revenue Limits for School Districts

Article 1. General Provisions

§ 15370. Scope of the Chapter.

The provisions of this chapter apply to the calculation of a district's revenue limit pursuant to Article 2 of Chapter 7 of Part 24 of the Education Code (Apportionments and Revenue Control, Section 42237–42246).

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

HISTORY

1. New Chapter 6 (Sections 15370–15392) filed 3–14–80; effective thirtieth day thereafter (Register 80, No. 11).

§ 15371. Definitions.

(a) "School Revenue Limit." The revenue limit is a computed amount that places a limit on the amount of revenue that a district is allowed to receive from property taxes, certain local sources of income, and from the state. A district may receive state and federal categorical aid, property taxes for repayment of capital projects outside the revenue limit, and some limited fees in addition to the revenue limit. The total revenue limit consists of a base revenue limit plus any of a number of revenue limit adjustments.

(b) "Base Revenue Limit." The base revenue limit is an amount that is computed by formula each year from the previous year's base revenue limit. Some of the revenue limit adjustments are permanent increases or decreases to the revenue limit and so become incorporated into the base revenue limit. Other revenue limit adjustments are computed anew each year.

(c) "Average Daily Attendance" (hereafter referred to as ADA). Unless otherwise indicated, attendance is measured as the count of daily attendance averaged over the school year consisting of at least 175 school days meeting for the minimum length school day as specified in the Education Code. For classes for adults and classes for regional occupational centers or programs pursuant to Education Code Section 41601, the average daily attendance shall be determined by dividing the total number of days of attendance in all full school months in the first period of attendance by a divisor of 70, in the second period by 135, and at annual time by 175. For classes for adults and classes for regional occupational centers or programs, three hours of attendance are equal to one apportionment day of attendance. There are three attendance periods for each fiscal year. The First Principal attendance period, designated P1, is the attendance count from July 1 through December 31, and is used to compute the First Principal Apportionment due February 20 of the fiscal year. The second principal attendance period, designated P2, is the attendance count from July 1 through the last school month that ends on or before April 15 of the fiscal year, and is used to compute the Second Principal Apportionment due June 25 of the fiscal year. Annual Attendance is the attendance count from July 1 through June 30 of the fiscal year.

(d) "Categorical Aid." In addition to the revenue limit support, school districts receive other state and federal funds which are apportioned on allotment for specific purposes named in the law, regulation, or statute. These are known as categorical aid because they can be spent only for specific categories.

(e) "General Aid." Revenue limit support, both local and state, are general aid as it can be spent for general purposes of the district.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

Article 2. Recomputation of 1978–79 School District Revenue Limits

§ 15375. Use of Official Schedules.

The Local Assistance Bureau of the State Department of Education shall provide official schedules for use in making the recomputations required by this article. These schedules shall be known as:

(a) SCHEDULE B, SCHEDULE FOR THE RECOMPUTATION OF THE DISTRICT'S 1978–79 REVENUE LIMIT/BLOCK GRANT FOR K–12 PROGRAMS TO BE USED AS A BASE FOR THE 1979–80 REVENUE LIMIT.

(b) SCHEDULE Q(B), SCHEDULE FOR THE DETERMINATION OF THE ADJUSTMENT FACTOR FOR REDUCTION OF TOTAL BLOCK GRANT FOR SCHOOL DISTRICTS.

(c) SCHEDULE F, 1979–80 SCHEDULE FOR THE DETERMINATION OF THE ADDITION TO THE RECOMPUTATION OF THE 1978–79 STATE TEACHERS' RETIREMENT SYSTEM (STRS) ALLOWANCE ADJUSTMENT FOR HIGH SCHOOL DISTRICTS EDUCATING 7th and 8th GRADE PUPILS.

(d) SCHEDULE BB, SCHEDULE FOR THE RECOMPUTATION OF THE DISTRICT'S 1978–79 REVENUE LIMIT FOR EDUCATION OF ADULTS TO BE USED AS A BASE FOR THE 1979–80 REVENUE LIMIT.

These official schedules shall be used in making these calculations. Reporting to the Local Assistance Bureau may be made on computer tape, subject to the prior approval of the State Department of Education.

The Local Assistance Bureau shall issue two sets of official schedules for use in recalculation of 1978–79 revenue limits. These schedules shall have the designations "–P1" and "–P2," and shall be used in making the Annual Recalculation of the Apportionment.

The Local Assistance Bureau shall modify these schedules, as required, pursuant to any legislation enacted subsequent to the approval of these regulations.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15376. Use of Actual Data.

References shall be made in this article to the form, schedules, and worksheet issued by the Local Assistance Bureau of the State Department of Education for use in recomputing the revenue limit/block grant in the 1978–79 fiscal year. The amounts to be used in making the recomputations described herein shall be those reported to the Local Assistance Bureau on the specified form or schedules issued by the Local Assistance Bureau, unless authorization to use computer tape has been granted.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15377. 1978–79 Recomputed Revenue Limit for K–12 Programs Using Schedule B and Back-Up Schedules Q(B) and F.

The county superintendent of schools shall recompute the 1978–79 revenue limit for K–12 programs to be used as a base for the 1979–80 revenue limit for each school district in the county using Schedule B. Schedule B shall be completed as follows:

(a) Line A: Report of the total 1978–79 revenue limit as shown on Line C–18 of Form K–12–A (1978–79).

(b) Line B: Report the revenue limit adjustments which are included in the base amount reported in Line A, and which must be excluded from the revenue base pursuant to Education Code Section 42237(a)(1). These revenue limit adjustments shall be reported as follows:

(1) Line B–1: Declining Enrollment Adjustment (reference Education Code Section 42239). Use the amount shown in Form K–12–A (1978–79), Line C–5.

(2) Line B-2: Unemployment Insurance Additional Costs Adjustment (reference Education Code Section 42241.7). Use the amount shown in Form K-12-A (1978-79), Line C-12.

(3) Line B-3: Adjustment for Mandated Costs Imposed by Final Court Orders, Federal Statutes, or Initiative Enactments after January 1, 1978 (reference Education Code Section 42243.6). Use the amount shown in Form K-12-A (1978-79), Line C-15.

(4) Line B-4: Prior Year and Other Adjustments (reference Education Code Sections 42245, 46617.5, 52321, and 52501.5). Use the sum of the amounts shown in Form K-12-A (1978-79), Lines C-17a, C-17b, C-17c, and C-17d.

(5) Line B-5: Adjustment in Revenue Limit for Nonimmigrant-Non-citizen Children (reference Education Code Section 42950). Use the amount shown in Form K-12-A (1978-79), Line C-14 times .50.

(6) Line B-6: Adjustments in Revenue Limit for Interdistrict Attendance Agreements (reference Education Code Section 46605(d)). Use the amount shown in Form K-12-A (1978-79), Line C-8.

(7) Line B-7: Report the total of these adjustments (sum of the amounts in Lines B-1 through B-6). This amount shall be shown in brackets () if negative.

(c) Line C: Report the total recomputed 1978-79 revenue limit, which is equal to the amount in Line A minus the amount in Line B-7.

NOTE: If the amount in Line B-7 is negative, this amount is added; if the amount is positive, this amount is subtracted.

(d) Line D: Report the 1977-78 permissive overrides levied and received which are to be added to the 1978-79 revenue limit for purposes of block grant. This is the same amount as shown on Form K-12-A (1978-79), Line D.

(e) Line E: Report the sum of the amounts in Lines C and D.

(f) Line F: Report the adjustment factor as recomputed using Schedule Q(B). Schedule Q(B) shall be completed as follows:

(1) Line A: Report the 1978-79 recomputed revenue limit as shown on Line C of Schedule B (1979-80).

(2) Line B: Report the 1977-78 permissive overrides levied and received to be added to the 1978-79 revenue limit for purposes of block grant, as shown on Line D of Schedule B (1979-80).

(3) Line C: Report the sum of the amounts in Lines A and B to give the total amount for adjustment factor determination.

(4) Line D: Report the total 1978-79 revenue limit ADA. This amount is the same as shown on Line C-1 of Form K-12-A (1978-79).

(5) Line E: Report the total amount per ADA, equal to the amount in Line C divided by the ADA reported in Line D, rounded to two decimal places.

(6) Line F shall be used to perform the computation of the adjustment factor.

(A) Line F-1a: Report the foundation program amount to be used in this recomputation for districts which do not meet the provisions of Chapter 119 of the Statutes of 1979 (AB 445). This amount is \$1.241 for elementary school districts, \$1.427 for high school districts, or \$1.322 for unified school districts.

(B) Line F-1b: Report the foundation program amount to be used in this calculation for districts that do meet the following three criteria specified by Chapter 119, Statutes of 1979 (AB 445), specifically that:

(1) the district has an average daily attendance of less than 10,000, as reported on Line C-1 of Form K-12-A (1978-79);

(2) the district maintained a necessary small school in 1977-78 and 1978-79 other than a continuation high school or a special education school; and

(3) the district was credited with a foundation program amount in the 1977-78 school year pursuant to Education Code Sections 41701, 41703, or subdivision (a) of Section 41711. For districts that meet all of these requirements, the amount used in Line F-1b shall be equal to the district's average foundation program amount per unit of average daily attendance for the 1978-79 fiscal year, which is determined by dividing the foundation program amount shown in Line C-3 of Form K-12-A (1978-79) by

the average daily attendance shown in Line C-1 of the same form. The result shall be rounded to the nearest whole dollar. This amount must be the same as that shown in Line F-1b in Schedule Q(B) (1978-79).

(C) Line F-2: Report the computed factor, equal to the amount in Line E divided by the amount in Line F-1a or F-1b, as appropriate, rounded to four decimal places.

(D) Lines F-3, F-4, and F-5 shall be used to determine the adjustment factor. If the factor in Line F-2 is less than or equal to 1.1000, use Line F-3 to report a deficit factor of .910000. If the factor in Line F-2 is greater than or equal to 1.5000, use line F-4 to report a deficit factor of .850000. If the factor in Line F-2 is between 1.1000 and 1.5000, perform the following calculation: subtract 1.1000 from the amount in Line F-2, divided the difference by .4, and multiply quotient by .06 and then add this product to .09, and then subtract that result from 1.00. (Round the answer in Line F-5 to six decimal places).

(7) Line G: Report the adjustment factor, which is equal to the amount in Line F-3 or F-4 or F-5, as appropriate.

NOTE: Return to Schedule B and report this amount on Line F of that schedule.

(g) Line G, Schedule B: The 1978-79 Total Recomputed Adult Revenue Limit: The amount on Line G of Schedule B is the same as the amount on Line C of Schedule BB, Schedule for the Recomputation of the District's 1978-79 Revenue Limit for Education of Adults. Use this amount as the base, the recomputation of which is described in Section 15379.

(h) Line H, Schedule B: Report the total recomputed block grant subject to reduction. This amount is equal to the sum of the amounts in Lines E and G.

(i) Line I: Report the total recomputed block grant after adjustment factor which is equal to the amount in Line F times the amount in Line H, rounded to the nearest dollar.

(j) Line J: Report the reduction of specified categorical programs and state special schools adjustment as required by Education Code Sections 42237(a)(2)(A) and 42243.5. This reduction shall be made for the following programs:

(1) Line J-1: Child Development (reference Education Code Section 8329). Use the amount levied and received for Child Development pursuant to Schedule P (1978-79), Line 2 times the adjustment factor shown in Form K-12-A (1978-79), Line F, but not to exceed the amount transferred to the Child Development Fund in 1978-79. Report this amount, rounded to the nearest dollar, on Line J-1.

(2) Line J-2: Development Centers for Handicapped Pupils (reference Education Code Section 56811). Use the amount levied and received for Development Centers for Handicapped Pupils pursuant to Schedule P (1978-79), Line 9, times the adjustment factor shown in Form K-12-A (1978-79), Line F, but not to exceed the amount transferred to Development Centers for Handicapped Pupils Fund in 1978-79. Report this amount, rounded to the nearest dollar, on Line J-2.

(3) Line J-3: Meals for Needy Pupils (reference Education Code Section 49502). Use the amount levied and received pursuant to Schedule P (1978-79), Line 7 times the adjustment factor shown in Form K-12-A (1978-79), Line F, but not to exceed the amount transferred to Meals for Needy Programs in 1978-79. Report this amount, rounded to the nearest dollar, on Line J-3.

(4) Line J-4: Decrease in Revenue Limit to Reflect a Required Reduction Because of Payments to Special Education Schools. State Special Education Schools (reference Education Code Section 42243.5). Use the amount of district contributions for state special education schools from local tax revenues pursuant to former Education Code Sections 59021, 59121, and 59221 (repealed by Chapter 237, Statutes 1979) for the 1972-73 fiscal year, plus the 1978-79 fiscal year revenue limit adjustment shown on Line C-11 of Form K-12-A (1978-79) pursuant to Section 42243.5 as it read in that fiscal year. Report this amount on Line J-4.

(5) Line J-5: Total Categorical Programs Reduction. Report the sum of the amounts in Lines J-1 through J-4.

(k) Line K: Compute the amount of reduction for mandated adult programs, as required by Education Code Section 42237(a)(2)(B). The amounts of the required reduction shall be computed as follows:

(1) Line K-1: Compute the 1978-79 adult base revenue limit per ADA which includes the adult base revenue limit and the adult revenue limit adjustment for additional STRS cost pursuant to Education Code Section 42238(i) (Chapter 232, Statutes 1978). This amount shall be equal to the sum of the amounts in Lines C-2 and C-3 from Worksheet S (1978-79) divided by the adult attendance shown in Line C-1 of Worksheet S (1978-79). Report this result rounded to two decimal places on Line K-1.

(2) Line K-2: Report the 1978-79 adjustment factor as shown in Form K-12-A (1978-79) Line F, rounded to six decimal places.

(3) Line K-3: Compute the 1978-79 reduced adult base revenue limit which is equal to the amount in Line K-1 times the amount in Line K-2. Round this result to two decimal places and show this on Line K-3.

(4) Line K-4: Report the 1978-79 school year second principal adult average daily attendance generated in the adult education programs mandated by Item 316.1 of the Budget Act of 1978 (Chapter 359, Statutes of 1978). Do not report any adult attendance from the 1977-78 school year. Report this amount on Line K-4.

(5) Line K-5: Compute the total reduction for mandated adult program, which is equal to the amount in Line K-3 times the attendance in Line K-4. Report this amount rounded to the nearest dollar on Line K-5.

(l) Line L: Additions to Revenue Limits Pursuant to Education Code Section 42237(a)(3).

(1) Line L-1a: Report the amount of state apportionments received by the district in fiscal year 1978-79 in Recalculated Second Principal Apportionment for this State Teachers Retirement System pursuant to Item 316.1 of the Budget Act of 1978 (Chapter 359, Statutes of 1978) excluding that portion allocated by the district for adults in Education Code Section 42237(c)(4)(A). Use only the K-12 share of the amount shown on Exhibit C, 1978-79 Recalculated Second Principal Apportionments pursuant to both Sections 41716 and 41716.5 of the Education Code. This recalculation is based on 1978-79 actual salaries shown on Page 21, Column 2 of the 1979-80 J-41 and the calculation in 1978-79, Schedule H(A).

(2) Line L-1b: To complete Line L-1b, see Schedule F to report the revenue limit increase for those high school districts providing education to 7th and 8th graders, as authorized by Section 42237.6 of the Education Code.

NOTE: Only those high school districts educating 7th and 8th grade pupils need to complete L-1b.

Schedule F shall be completed as follows:

(A) Column I reflects the recalculation of Schedule H(A) for fiscal year 1978-79. Column II reflects calculations pursuant to Education Code Section 42237.6.

1. Line A: Report the actual 1978-79 district contribution to STRS (8.0%). This figure is obtained from Column 2, page 21 of the J-41, District Budget and Financial Report.

2. Line B: Report the computation amount in Column I based on the 1978-79 actual assessed valuation times (.05 divided by 100). In Column II, multiply the 1978-79 actual assessed valuation times (.0692 divided by 100). For 1978-79, modified assessed valuation is actual assessed valuation.

3. Line C: Determine the balance by deducting Line B from Line A. If the balance in both columns is negative, stop the calculation and proceed no further. If the balance in either column is positive, proceed with the calculations.

4. Line D: Report the computation based on the 1978-79 modified assessed valuation times (.03 divided by 100) for Column I and 1978-79 modified assessed valuation times (.0415 divided by 100) for Column II.

5. Line E: Determine the balance by deducting Line D from amount in Line C. If the balance in both columns is negative, stop the calculation and proceed no further. If the balance in either column is positive, proceed with the calculations.

6. Line F: Report the computation based on 1978-79 modified assessed valuation times (.04 divided by 100) for Column I and 1978-79 modified assessed valuation times (.0554 divided by 100) for Column II.

7. Line G-1: For each column (I and II), if the amount in Line F is equal to or exceeds the amount in Line E, the state will pay one-half the amount in Line E. If G-1 is the alternate, proceed to line H.

8. Line G-2: For each column (I and II), if the amount in Line F is less than the amount in Line E, the state will pay one-half the amount in Line F. Do not proceed to Line H if Line G-2 is the alternate.

9. Line H: The local district is required from its own funds to pay an amount equal to the amounts shown in Line G-1 or G-2 in either column. This additional local cost cannot be added to the revenue limit by the district.

10. Line I: The balance required after deduction of the amount in Line G-1 or G-2 from the amount in Line E, minus the amount in Line H.

11. Line J-1: State pays 60 (sixty) percent of the amount in Line I.

12. Line J-2: Local school district pays 40 (forty) percent of the amount on Line I. District cannot add this amount to the revenue limit.

(B) Analysis of State Teachers Retirement Allowances for 1978-79.

1. Line I: In Column I, the 1978-79 Second Principal Actual STRS Allowance from Column I, Line D plus Line G. It should be noted that this amount reflects the recalculation of 1978-79 STRS allowances to take into effect the actual district contribution to STRS paid in 1978-79.

2. Line II: In Column II, the actual 1978-79 revised Second Principal STRS Allowance from Column II, Line D plus Line G. This amount is for purposes of Education Code Section 42237.6 (junior high STRS).

3. Line III: In Column I, the actual 1978-79 local district additive from Schedule H(A), Line A-4d. This amount is based on .05 times the 1978-79 actual assessed valuation divided by 100.

4. Line IV: In Column II, show the actual 1978-79 local district STRS additive which would have been shown on Schedule H(A), Line A-4d. This amount is based on .0692 times the 1978-79 actual assessed valuation divided by 100. From this amount, subtract the amount on Line A-4d, 1978-79, Schedule H(A). From this difference, add the amount shown on Line III.

5. Line V: Subtract the amount in Line III from the amount in Line IV and subtract the amount in Line I from the amount in Line II. Add the two amounts obtained and show in Line V. This amount is then used on Schedule B, Line L-1b, and is a one-time permanent adjustment to the base revenue limit. For further calculations, return to Schedule B, Line L-2.

(3) Line L-2: Report the balances of funds on June 30, 1977 restricted for meals for needy pupils for districts which levied no meals for needy pupils tax pursuant to Section 49502 of the Education Code in the 1977-78 fiscal year.

(4) Line L-3: (A) Report one-half of the amount of salary increases granted to classified employees of a school district in the fiscal years 1974-75 to 1979-80, inclusive, by the board of supervisors of a combined city and county (Education Code Section 42237(a)(3)(C)).

(B) Report any revenue limit increase authorized pursuant to Section 42244 of the Education Code which was not authorized to be levied prior to the 1979-80 fiscal year (Education Code Section 42237(a)(3)(D)).

(C) If items (4)(A) and/or (4)(B) are claimed by a school district, the county must provide the Local Assistance Bureau with an explanation of how the amounts were derived.

(5) Line L-4: Report the sum of lines L-1a, L-1b, L-2, and L-3 to the revenue limit.

(m) Line M: Report the 1978-79 recomputed base revenue limit, which amount shall be equal to the amount in Line I minus the amount in Line J-5 minus the amount in Line K-5 plus the amount in Line L-4.

(n) Line N: Report the 1978-79 redefined second principal revenue limit average daily attendance used for block grant purposes as follows:

(1) Line N-1: Report the actual K-12 average daily attendance used in the 1978-79 Second Principal Apportionment, as shown in Form K-12-A (1978-79), Line C-1.

(2) Line N-2: Report the actual 1978-79 second principal summer school average daily attendance for programs for graduating seniors, which amount shall be rounded to a whole number.

(3) Line N-3: Report the 1977-78 second principal apportionment average daily attendance in summer school programs that is included in Line N-1. Summer school programs for substantially handicapped pupils are regular attendance and shall not be included in the attendance reported on Line N-3.

(4) Line N-4: Report the total 1978-79 redefined second principal revenue limit average daily attendance, which shall be equal to the average daily attendance in Line N-1 plus the average daily attendance in Line N-2 minus the average daily attendance in Line N-3.

(o) Line O: Determine the 1978-79 recomputed K-12 base revenue limit amount per unit of average daily attendance which is to be used as the base for the 1979-80 revenue limit calculation. This amount shall be equal to the amount in Line M divided by the average daily attendance in Line N-4, and reported to two decimal places. Enter this result on Form K-12, Line A.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

§ 15378. Calculation of Statewide Average 1978-79 Revenue Limits for K-12 Programs.

The Superintendent of Public Instruction shall determine the 1978-79 statewide weighted mean revenue limits for seven classifications of districts by ADA for K-12 programs computed pursuant to Section 42237(a)(5) of the Education Code and reported on Line O of Schedule B (1979-80) as described in Section 15377. As used in this section, "ADA" is the district's 1978-79 regular average daily attendance, and is equal to the average daily attendance in Line N-4 minus the average daily attendance in Line N-2 of Schedule B (1979-80). This computation shall be made for the following groups of districts:

- (a) Elementary districts with less than 101 units of ADA.
- (b) Elementary districts with more than 100 and less than 901 units of ADA.
- (c) Elementary districts with greater than 900 units of ADA.
- (d) High school districts with less than 301 units of ADA.
- (e) High school districts with greater than 300 units of ADA.
- (f) Unified districts with less than 1,501 units of ADA.
- (g) Unified districts with greater than 1,500 units of ADA.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

§ 15379. 1978-79 Recomputed Revenue Limit for Adult Programs Using Schedule BB.

The county superintendent of schools shall recompute the 1978-79 revenue limit for adult programs to be used as a base for the 1979-80 revenue limit for each school district in the county providing education for adults, using Schedule BB. Schedule BB shall be completed as follows:

(a) Line A: Report the total 1978-79 adult revenue limit as shown on Line C-9 of Worksheet S (1978-79, dated 10/10/78). (Also the same as Line G, Form K-12-A, 1978-79).

(b) Line B: Report the revenue limit adjustments which are included in the base amount reported in Line A, and which must be excluded from the revenue base pursuant to Education Code Section 42237(a)(1). These revenue limit adjustments shall be reported as follows:

(1) Line B-1: Prior year adjustments (reference Education Code Section 42245). Use the amount shown in Worksheet S (1978-79), Line C-4.

(2) Line B-2: Gain or loss from Interdistrict Attendance Agreements (reference Education Code Section 46605(d)). Use the amount shown in Worksheet S (1978-79), Line C-6.

(3) Line B-3: Report the total of these adjustments equal to the sum of the amounts in Lines B-1 and B-2. This amount shall be shown in brackets () if negative.

(c) Line C: Report the total recomputed 1978-79 adult revenue limit prior to adjustment factor, equal to the amounts in Line A minus the amount in Line B-3.

NOTE: If the amount in Line B-3 is negative, add the amount. Positive amounts are subtracted. Report this amount on Schedule B, Line G.

(d) Line D: Report the 1978-79 adjustment factor as shown on Line F of Form K-12-A (1978-79), rounded to six decimal places.

(e) Line E: Compute the 1978-79 reduced adult revenue limit, equal to the amount in Line C times the amount in Line D. Report this amount rounded to the nearest dollar.

(f) Report an adjustment to the adult revenue limit pursuant to Education Code Section 42237(a)(3). This adjustment is equal to the amount of state apportionments received by the district for the State Teachers Retirement System pursuant to Item 316.1 of the Budget Act of 1978 (Chapter 359, Statutes of 1978). Use the adult share of the amount shown on Exhibit C, 1978-79 Recalculated Second Principal Apportionment. This amount includes that portion allocated by the district for adult programs and excluded from Schedule B, Lines L-1a and L-1b.

(g) Line G: Report the 1978-79 recomputed adult base revenue limit, equal to the amount in Line E plus the amount in Line F.

(h) Line H: Report the 1977-78 actual recalculated second principal adult average daily attendance. Count all 1977-78 adult attendance except for concurrently enrolled students.

NOTE: This must be the same attendance as shown on Line C-1 of Worksheet S (1978-79 dated 10/10/78), unless ADA corrections were processed after that time.

(i) Line I: Report the recomputed 1978-79 adult base revenue limit per unit of average daily attendance to be used as the base for the 1979-80 revenue limit calculation. This amount is equal to the amount in Line G divided by the attendance in Line H, and shall be reported to two decimal places. Use this amount on Schedule S, Line A.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

§ 15380. Calculation of Statewide Average 1978-79 Adult Revenue Limit.

The Superintendent of Public Instruction shall take the amount shown on 1979-80 Schedule BB, Line I, computed pursuant to Section 42237(c)(4)(A) of the Education Code and multiply this amount per ADA by the 1978-79 mandated adult ADA shown on 1979-80 Form K-12, Line K-4. The product of this calculation will be summed for all districts with adult programs. The amount obtained will then be divided by the statewide 1978-79 mandated adult ADA (1979-80 Form K-12, Line K-4) generated in the adult education program as specified in Item 316.1 of the Budget Act of 1978 (Chapter 359, Statutes of 1978). This quotient, rounded to the nearest dollar, is the 1978-79 statewide average adult revenue limit.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

Article 3. Calculation of School District Revenue Limits for 1979-80

§ 15384. Use of Official Schedules.

The Local Assistance Bureau of the State Department of Education shall provide an official form and schedules for use in making the calculations required by this article. The form and schedules shall be known as:

(a) FORM K-12. FORM FOR THE DETERMINATION OF THE DISTRICT'S REVENUE LIMIT FOR K-12 PROGRAMS FOR FISCAL YEAR 1979-80.

(b) SCHEDULE C, SCHEDULE FOR THE DETERMINATION OF THE 1979-80 DECLINING ENROLLMENT ADJUSTMENT TO BE ADDED TO LINE C-3 OF THE REVENUE LIMIT FORM K-12.

(c) SCHEDULE D, SCHEDULE FOR THE DETERMINATION OF THE 1979-80 REVENUE LIMIT ADJUSTMENT FOR INSTITUTIONALIZED AND FOSTER HOME CHILDREN—SPECIAL EDUCATION AND SPECIAL PROGRAMS.

(d) SCHEDULE E, SCHEDULE FOR THE DETERMINATION OF THE NECESSARY SMALL CONTINUATION HIGH SCHOOL AD-

JUSTMENT FOR FISCAL YEAR 1979–80 FOR SCHOOLS APPROVED FOR 1979–80 PRIOR TO NOVEMBER 30, 1979 AND THE ADJUSTMENT FOR A NEWLY ORGANIZED UNIFIED DISTRICT WHICH BECAME EFFECTIVE FOR ALL PURPOSES ON OR AFTER JUNE 30, 1978.

(c) SCHEDULE G, SCHEDULE FOR DETERMINATION OF REVENUE LIMIT ADJUSTMENT FOR FISCAL YEAR 1979–80 FOR DEVELOPMENT CENTERS FOR HANDICAPPED PUPILS AND MEALS FOR NEEDY PUPILS.

(f) SCHEDULE J, SCHEDULE FOR THE DETERMINATION OF THE PERMANENT ADJUSTMENT TO THE K–12 REVENUE LIMIT FOR FISCAL YEAR 1979–80 FOR HIGH SCHOOL DISTRICTS MAINTAINING JUNIOR HIGH SCHOOL PROGRAMS.

(g) SCHEDULE S, SCHEDULE FOR THE DETERMINATION OF THE DISTRICT'S 1979–80 REVENUE LIMIT FOR THE MANDATED PROGRAMS FOR THE EDUCATION OF ADULTS.

The form and schedules shall be used in making the calculations. Reporting to the Local Assistance Bureau will be made using the form and schedules or may be made on computer tape, subject to the prior approval of the State Department of Education.

The Local Assistance Bureau shall issue three sets of official revenue limit form and schedule for use in calculating 1979–80 revenue limits. These forms and schedules shall have the designations (P1), (P2) and (A) and shall be used to collect data for use in making the First Principal Apportionment, the Second Principal Apportionment and the Annual Recalculation of the Revenue Limit, respectively. The Local Assistance Bureau shall modify this form and these schedules as required, pursuant to any legislation enacted subsequent to the approval of these regulations.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15385. Use of Estimated or Actual Data.

The data used in calculating the revenue limit using the (P1) set of form and schedules for the First Principal Apportionment shall be the best available estimates of data. The 1979–80 data used in calculating revenue limit using the (P2) set of form and schedules for the Second Principal Apportionment shall include actual second principal data where available and the best available estimates of other data where actual data is not available.

Data used in calculating the revenue limit using the (A) set of forms and schedules for the Annual Recalculation shall be actual 1979–80 data. The ADA used in the annual recalculation is corrected actual second principal ADA. Any data required from years 1978–79 or 1977–78 shall be actual recalculated second principal data.

Pursuant to Section 41601.5 of the Education Code, any district whose annual ADA is equal to or greater than 2 percent more than the second principal ADA specified herein, provided that this increase in attendance is attributable to the children of migrant agricultural workers, may substitute annual ADA for second principal. If annual attendance is used pursuant to Section 41601.5 of the Education Code, the county shall notify the Local Assistance Bureau of the State Department of Education of the actual annual ADA of the district.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15386. Calculation of 1979–80 Revenue Limit for School Districts Using Form K–12.

The county superintendent of schools shall calculate the 1979–80 revenue limit for each school district in the county using Form K–12 and Schedules C, D, E, G, J, and S. Form K–12 shall be completed as follows:

(a) Line A: Report the recomputed K–12 base revenue limit per unit of average daily attendance as shown in Line O of Schedule B (1979–80). This amount shall be reported to two decimal places.

(b) Line B–1: Report the appropriate weighted mean base revenue limit computed pursuant to Section 15378. The weighted mean revenue limits provided on Forms K–12 (P–1) and K–12 (P–2) are an estimate. The weighted mean revenue limits provided on Form K–12(A) shall be the actual weighted mean. For purposes of Line B–1, "ADA" shall be the

1978–79 regular average daily attendance, equal to the attendance in Line N–4 minus the attendance in Line N–2 of Schedule B (1979–80). Use the appropriate weighted mean for the type and size of district as follows:

(1) Line B–1a: For elementary districts with less than 101 ADA.

(2) Line B–1b: For elementary districts with greater than 100 but less than 901 ADA.

(3) Line B–1c: For elementary districts with greater than 900 ADA.

(4) Line B–1d: For high school districts with less than 301 ADA.

(5) Line B–1e: For high school districts with greater than 300 ADA.

(6) Line B–1f: For unified districts with less than 1,501 ADA.

(7) Line B–1g: For unified districts with greater than 1,500 ADA.

(c) Line B–2: Determine the computed factor equal to the appropriate amount in Line B–1 divided by the amount in Line A. Report this amount rounded to four decimal places. Note that this computed factor may be greater than 1.0000.

(d) Line B–3: Computation of the annual inflation adjustment. The adjustment for all districts is based on 8.6 percent (.086) times the weighted mean revenue limit of a unified district with ADA greater than 1,500 ADA (estimated to \$1,476). \$1,476 times .086 = \$127 when rounded to whole dollars. The accuracy of the \$127/per ADA will not be totally known until the final data to determine the \$1,476 are available in the summer of 1980.

(e) Line B–4: Report a permanent decrease in the revenue limit per unit of average daily attendance which is required by Education Code Section 42244.7 when special education programs are transferred from a school district to a county superintendent of schools pursuant to Section 1710 of the Education Code. The amount of reduction shall be equal to the amount of excess cost which the district expended from its revenue limit, exclusive of income from federal sources or tuition for such programs in 1978–79, divided by the average daily attendance in 1979–80 as shown on Line C–1 of this form. This computed amount represents a decrease to the revenue limit and so shall be shown in brackets () and shall be reported to two decimal places.

(f) Line B–5: Report a permanent increase to the revenue limit authorized by Section 42237.5 of the Education Code and calculated pursuant to Section 15387. Add the amounts shown in Line I of Schedules J (1979–80) for the feeder elementary districts, and divide this sum by the high school ADA, as shown on Line C–1, 1979–80 Form K–12.

(g) Line B–6: Report the 1979–80 adjusted revenue limit per unit of ADA, equal to the sum of the amounts in Lines A, B–3, B–4, and B–5. This result shall be reported to two decimal places.

(h) Line C–1: Report the 1979–80 second principal apportionment revenue limit ADA. On forms K–12(P1) and K–12(P2) use the estimated second principal ADA, and on Form K–12(A) use the actual second principal ADA.

(1) Line C–1a: Report the regular average daily attendance reduced by class-size penalties. Exclude summer school ADA and adult ADA attendance in both adult and regional occupational programs and centers. Do include concurrently enrolled pupils in ROP/C and adult programs. Also count ADA in summer programs for the substantially handicapped, as this is regular attendance and not summer school attendance.

(2) Line C–1b: Report the 1979–80 actual ADA in summer school programs for graduating seniors times .6, rounding the result to the nearest whole number. If the district had a 1979–80 summer program for graduating seniors and this result, prior to rounding, is less than one, report one ADA. ADA in summer school programs shall be credited only for those high school seniors who actually graduated by the end of September 1979.

(3) Line C–1: Report the sum of the ADA shown on Lines C–1a and C–1b.

(i) Line C–2: Compute the 1979–80 adjusted revenue limit, equal to the amount in Line B–6 times the ADA in Line C–1. Round the result to the nearest whole dollar.

(j) Line C–3: Report the increase in revenue limit because of declining enrollment authorized by Sections 42239 and 42239.5 of the Education

Code and calculated pursuant to Section 15388 of this Article. Report the amount shown in Line K of Schedule C (1979–80).

(k) Line C–4: Report any gain or loss from Interdistrict Attendance Agreements Authorized by Education Code Section 46605(d).

(l) Under an interdistrict attendance agreement where tuition is paid, as authorized by this Education Code Section, the district in which the pupil lives shall claim the ADA and shall pay a tuition to the district in which the pupil attends. Pursuant to subdivision (d) of Section 46605 of the Education Code, the district of residence shall reduce its revenue limit by the total excess, if any, which is determined by subtracting the district of residence's revenue limit per unit of average daily attendance as reported in Line B–6 of Form K–12 (1979–80) multiplied by the total interdistrict average daily attendance from the total tuition to be paid to the districts of attendance. Also, the district of residence may increase its revenue limit by the total excess, if any, which is determined by subtracting the total tuition to be paid to districts of attendance from the district of residence's revenue limit per unit of average daily attendance as reported in Line B–6 of Form K–12 (1979–80) multiplied by the total interdistrict average daily attendance.

(2) If the district of attendance claims the units of average daily attendance under an inter-district attendance agreement, and no tuition is collected, the adjustment on Line C–4 shall not be allowed.

(l) Line C–5: Report the increase in the revenue limit to reflect additional costs incurred by the district for unemployment insurance pursuant to Education Code Section 42241.7. This section of the Education Code allows the district to increase its revenue limit by an amount equal to the expenditures to be incurred by the district in 1979–80 for the costs of unemployment insurance for certificated personnel minus the costs of unemployment insurance for certificated personnel in 1975–76 (the base year for this calculation).

(m) Line C–6: Report the increase in the revenue limit to reflect mandated costs imposed by final court orders, federal statutes, or initiative enactments after January 1, 1978, as authorized by Education Code Section 42243.6. If this revenue limit adjustment is used, the district and/or the county shall provide a letter of explanation to the Local Assistance Bureau of the State Department of Education.

(n) Line C–7a: Report of pupils in children's institutions and foster home additive pursuant to Sections 42902 and 42903 of the Education Code and calculated pursuant to Section 15389 of this Article. Report the amount shown in Line C of Schedule D (1979–80).

(o) Line C–7b: Report necessary small continuation high school adjustment and newly organized unified district adjustment effective on or after June 30, 1978. Calculation is made pursuant to Education Code Section 42243.7 and calculated pursuant to Section 15390 of this Article. Report the amount shown in Line E of Schedule E (1979–80).

(p) Line C–8: Report the increase in revenue limit for meals for needy pupils and development centers for handicapped pupils authorized by Section 42237 of the Education Code and calculated pursuant to Section 15391 of this Article. Report the amount shown in Line C of Schedule G (1979–80).

(q) Line C–9: Report the 1979–80 adult revenue limit authorized by Section 42237 of the Education Code and calculated pursuant to Section 15392 of this Article. Report the amount shown in Line E of Schedule S (1979–80).

(r) Line C–10: Report the following revenue limits adjustments. These adjustments for 1979–80 shall all be shown in brackets () since they represent reductions to the revenue limit.

(1) In 1980–81 and thereafter, Line C–10a could be plus or minus.

(2) Line C–10b: Report a reduction for excess reserves for Regional Occupational Center or Program, as required by Section 52321 of the Education Code. Excess reserves are defined in Section 52321 of the Education Code to mean net ending balances, exclusive of capital outlay balances accumulated through the regional occupational center or program restricted capital outlay tax authorized by Sections 52312 and 52317 of the Education Code, which are in excess of 15 (fifteen) percent of the previous fiscal year's expenditures for operation.

(3) Line C–10c: Report a reduction for excess adult reserves as required by Section 52501.5 of the Education Code. Excess adult reserves are defined in this section of the Education Code to mean net ending balances in excess of 15 (fifteen) percent of the amount expended in the prior year for the operation of the adult education program.

(4) Line C–10d: Report a reduction in the revenue limit to reflect the difference between county-operated revenue limit or Joint Powers Regional Occupational Center or Program actual cost and the district revenue limit, as required by Section 52321 of the Education Code. Pursuant to this section of the Education Code, a district shall pay an amount of tuition for each unit of average daily attendance equal to the base revenue limit of the district, but not to exceed the revenue limit of a county-operated regional occupational center or program per unit of average daily attendance or the actual cost per unit of average daily attendance of a regional occupational center or program operated pursuant to a joint powers agreement. The amount of any excess of the district's base revenue limit over the amount the district is required to pay shall be a reduction in the district's revenue limit, and this amount shall be reported in Line C–10d.

Use Line C–10 to report the total of the adjustments shown on Lines C–10b, C–10c, and C–10d. Note: Prior-year adjustments pursuant to Section 42245 of the Education Code shall not be a revenue limit adjustment in the 1979–80 fiscal year and so Line C–10a shall not be used. Any corrections to the 1978–79 K–12 revenue limit shall be made through the recalculation of the 1978–79 K–12 revenue limit due February 1980.

(s) Line C–11: Report the total Revenue Limit of the district first computation, which is the sum of the amounts in Lines C–2 through C–10.

(t) Line C–12: Compute the minimum 1979–80 revenue limit, which is equal to 1.02 times the difference between the 1978–79 block grant (after application of the adjustment factor shown on Line I of Form K–12–A (1978–79) and the 1978–79 amount for Child Development shown on Line J–1 of Schedule B (1979–80)).

(u) Line C–13: Report the increase in the revenue limit for high transportation costs in small school districts pursuant to Section 42240 of the Education Code. The county office of education shall compute for each school district with less than 2,501 units of average daily attendance in regular programs, excluding attendance in adult programs, regional occupational centers or programs, and summer school programs in the 1978–79 second principal apportionment, the difference between:

(1) The approved 1977–78 home-to-school transportation expense as shown in Line D–1 of Form J–141 issued by the Local Assistance Bureau of the State Department of Education, and

(2) Three percent of the district's 1977–78 general fund total expense of education as shown in the sum of accounts 1000 through 6000 in Form J–41 (1978–79), Column 2 issued by the Local Assistance Bureau of the State Department of Education. If this difference is greater than zero, it shall be added to the revenue limit of the school district.

(v) Line C–14: Compute the total 1979–80 revenue limit, equal to the greater of:

(1) The sum of the amounts in Lines C–11 and C–13, or

(2) The sum of the amounts in Lines C–12 and C–13.

(w) Line D–1: Report 1979–80 secured roll tax collections pursuant to Government Code Section 26912 excluding all subventions.

(x) Line D–2: Report the 1979–80 subventions for the homeowners exemption (HOX) and the business inventory exemption (BIX) for both the secured and unsecured rolls.

(y) Line D–3: Report 1979–80 secured and unsecured roll tax collections for subventions other than homeowners and business inventory exemptions, pursuant to Section 41052 of the Education Code and Section 992 of the Revenue and Taxation Code.

(z) Line D–4: Report the 1979–80 amount of timber tax yield revenue received pursuant to Section 41760.5 of the Education Code and Section 38906 of the Revenue and Taxation Code.

(aa) Line D–5: Report the 1979–80 tax income from the unsecured roll excluding all subventions.

(bb) Line D-6: Report the amount of regular prior-year taxes received in 1979-80.

(cc) Line D-7: Report the amount of prior-year impounds released in 1979-80.

(dd) Line D-8: Report for 1979-80 the amount of any unrestricted prior year balances in any other tax funds. This amount shall be used in 1979-80 as local income.

(ee) Line D-9: Report 50 (fifty) percent of the miscellaneous funds for 1979-80. Section 41604 of the Education Code defines miscellaneous funds to be revenues that a district has received and which have been deposited to the credit of the general fund of the district on account of in-lieu taxes or income from bonuses or royalties. Potash and potassium royalties received pursuant to U.S. federal mineral deposits in excess of \$909,517 are considered to be miscellaneous funds. Federal forest reserve revenues and revenues from rents are not considered to be miscellaneous funds.

(ff) Line D-10: Report total local revenue, equal to the sum of the amounts on Lines D-1 through D-9.

(gg) Line E: Compute the state aid portion of the revenue limit, equal to the amount in Line C-14 minus the amount in Line D-10. In no event shall the state block grant be less than \$2,400 or the product of the average daily attendance shown in Line C-1 and \$120.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

§ 15387. Calculation of Increase in Revenue Limit for a High School District Maintaining a Junior High School Using Schedule J.

NOTE: Only high school districts with junior high programs are affected.

The increase in revenue limit for a high school district maintaining a junior high school authorized by Section 42237.5 of the Education Code shall be calculated using Schedule J. This calculation shall not apply to any high school district whose 1978-79 recomputed base revenue limit per unit of average daily attendance, as shown on Line A of Form K-12 (1979-80) exceeds 120 (one hundred and twenty) percent of the 1978-79 weighted average revenue limit for high school districts having over 300 units of average daily attendance computed pursuant to Section 15378, nor shall this calculation apply to high school districts that do not receive junior high school tuition payments pursuant to Section 37062 of the Education Code. The calculation described in Steps (a) through (j) below shall be made for each elementary school district sending junior high school pupils to the high school district, using Schedule J.

(a) Line A: Compute the 1979-80 base revenue limit per unit of average daily attendance for the elementary school district, equal to the sum of the amounts shown in Lines A and B-3 of Form K-12 (1979-80) for the elementary school district. Report this amount rounded to two decimal places on Line A.

(b) Line B: Compute the 1979-80 base revenue limit for the high school district, equal to the sum of the amounts shown in Lines A and B-3 of Form K-12 (1979-80) for the high school district. Report this amount, rounded to two decimal places, on Line B.

(c) Line C: Subtract the elementary district's base revenue limit shown in Line A from the high school district's base revenue limit shown in Line B and multiply this difference by .75. Report this result rounded to two decimal places on Line C.

(d) Line D: Report the 1979-80 elementary school district junior high school tuition rate pursuant to Section 37062 of the Education Code. This amount shall be rounded to two decimal places.

(e) Line E: Subtract the elementary district's base revenue limit shown in Line A from the junior high school tuition rate shown in Line D, and report this result to two decimal places on Line E.

(f) Line F: Report the 1979-80 Second Principal seventh and eighth grade average daily attendance attending the high school district.

(g) Line G: Subtract the amount in Line E from the amount in Line C, and multiply this result by the average daily attendance shown in Line F. Report this result to a whole dollar on Line G. If this result is less than zero, report zero.

(h) Line H: Subtract the high school district's base revenue limit shown in Line B from the junior high school tuition rate shown in Line D, and multiply this result by the average daily attendance in Line F. Report this result to a whole dollar on Line H. If this result is less than zero, report zero.

(i) Line I: Subtract the amount in Line H from the amount in Line G. This is the amount for a single district. A separate Schedule J must be completed for each of the elementary school districts that send junior high school students to the high school district. When this has been done, add the amounts shown in Line I of Schedule J for all the feeder elementary districts of the high school district, and divide this sum by the high school ADA, as shown on Line C-1, 1979-80, Form K-12. This quotient shall be rounded to two decimal places and reported on Line B-5 on the 1979-80 Form K-12. Note: If the sum of the Feeder elementary districts, Line I adjustments, is less than zero, there is no adjustment to the high school revenue limit.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237-42245, Education Code.

§ 15388. Calculation of Increase in Revenue Limit Because of Declining Enrollment Using Schedule C.

The increase in revenue limit for declining enrollment authorized by Sections 42239 and 42239.5 of the Education Code shall be calculated using Schedule C. Schedule C shall be completed as follows:

(a) For the purpose of Schedule C only, "ADA" shall mean regular K-12 average daily attendance, but shall exclude ADA in summer school programs, ADA for concurrently enrolled high school students in adult education programs, ADA earned in regional occupational centers or programs, ADA from interdistrict attendance agreements, ADA for Sedgwick Act pupils, ADA in adult education programs, ADA gained or lost because of district reorganization, ADA for pupils transferred to a county superintendent of schools special education program, ADA for Master Plan Special Education formerly reported by county offices of education but, for 1979-80, reported as school district ADA (1979-80 compared to 1978-79 only), and ADA changes due to class-size penalties. Attendance in summer school programs for substantially handicapped pupils is counted as regular attendance, not summer school attendance. Changes in attendance due to district reorganization shall not be counted as required by Section 42239 of the Education Code.

(b) Line A: Report the 1978-79 second principal ADA.

(c) Line B: Report the 1979-80 second principal ADA.

(d) Line C: Compute the loss in ADA between 1978-79 and 1979-80 equal to the attendance in Line A minus the attendance in Line B.

(e) Line D: Compute 1 (one) percent of the 1978-79 ADA, equal to .01 times the attendance in Line A.

(f) If the loss in ADA in Line C is more than the 1 (one) percent loss shown in Line D, then compute the additional ADA that the district is allowed to count, equal to .75 times the attendance in Line C, and report this amount in Line E rounded to a whole number.

(g) Line F: Report the 1977-78 second principal ADA.

(h) Line G: Compute the loss in ADA between 1977-78 and 1978-79, equal to the attendance in Line F minus the attendance in Line A.

(i) Line H: Compute 1 (one) percent of the 1977-78 ADA, equal to .01 times the attendance in Line F.

(j) Line I: If the loss in ADA shown in Line G is more than the 1 percent loss shown in Line H, then compute the additional ADA that the district is allowed to count, equal to .50 times the attendance in Line G, and report this amount on Line I, rounded to a whole number. Proceed with this computation even if the district did not qualify for the .75 adjustment.

(k) Line J: Report the base revenue limit per unit of average daily attendance for 1979-80. This is the same amount as shown on Line B-6 of Form K-12 (1979-80).

(l) Line K: Report the total additional revenue to be added as a declining enrollment adjustment. This amount is equal to the sum of the attendance computed in Lines E and I multiplied by the amount in Line J, and rounded to a whole dollar. Report this amount on Line C-3 of Form K-12 (1979-80).

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15389. Calculation of Increase in Revenue Limit for Pupils in Children's Institutions and Foster Homes Using Schedule D.

(a) The increase in revenue limit for pupils in children's institutions and foster homes authorized by Sections 42902 and 42903 of the Education Code shall be calculated using Schedule D.

(b) Part A of Schedule D is used to report the expenditures for a special education program for foster home and institutionalized pupils operated by a district as follows:

(1) Line A-1a: Report actual 1978–79 expenditure for special education programs for pupils in foster homes and institutions.

(2) Line A-1b: Report actual 1978–79 expenditure for Development Centers for Handicapped Pupils in foster homes and institutions.

(3) Line A-1c: The total expenditures are obtained by adding the amounts in Lines A-1a and A-1b.

(4) Line A-2: This line shows the 1978–79 ADA in special education programs for pupils in foster homes and institutions.

(5) Line A-3a: Report the 1978–79 special education allowances received for pupils in foster homes and institutions.

(6) Line A-3b: Report the 1978–79 state allowance for development centers for handicapped pupils for those pupils in foster homes and institutions.

(7) Line A-3c: Report the revenue limit income for special education pupils in foster homes and institutions. From the 1978–79 Form K-12-A, add the base revenue limit (Line C-4) to the voted increase (Line C-6) and divide by the ADA (Line C-1). Multiply the resultant quotient by the reduction factor (Line F), and multiply that product by the Special Education ADA on Line A-2 of the 1979–80 Schedule D.

(8) Line A-3d: Report any 1978–79 federal funds received for any special education pupils in foster homes and institutions.

(9) Line A-3e: Add the amounts in Lines A-3a through A-3d. (10) Line A-4: Deduct the amount in Line A-3e from the expenditures in Line A-1c.

(c) Part B is used to report special educational programs authorized pursuant to Section 42904 of the Education Code as it read in 1977–78 or 1978–79.

(1) Line B-1: Report the 1978–79 total expenditures in program.

(2) Line B-2: Report the 1978–79 actual recalculated second principal ADA in the special educational program.

(3) Line B-3a: Report the revenue limit income for special educational pupils. From the 1978–79 Form K-12-A, add the base revenue limit (Line C-4) to the voted increase (Line C-6) and divide the sum by the ADA (Line C-1). Multiply the resultant quotient by the reduction factor (Line F), and multiply that product by the special educational ADA on Line B-2 of the 1979–80 Schedule D.

(4) Line B-3b: Report any 1978–79 federal funds received for any special educational pupils.

(5) Line B-3c: Report 1978–79 state categorical funds received for any special educational pupils.

(6) Line B-3d: Sum the amounts in Lines B-3a through B-3c.

(7) Line B-4: Deduct the amount in Line B-3d from the expenditure in Line B-1.

(8) Line C: Sum the amounts on Lines A-4 and B-4 and show on this line and on the 1979–80 form K-12(P2), Line C-7a.

Chapter 1035, Statutes of 1979 (SB 186) provides \$12,000,000 for the purposes set forth on Schedule D. If the statewide total exceeds this amount, a deficit across the board will be applied.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15390. Calculation of Increase in Revenue Limit for Necessary Small Continuation High Schools for Fiscal Year 1979–80 and a Newly Organized Unified School District Which Became Effective for All Purposes on or After June 30, 1978, Using Schedule E.

The increase in revenue limit authorized by Section 42243.7 of the Education Code for necessary small continuation high schools that were approved for the 1979–80 fiscal year prior to November 30, 1979, and a newly organized unified school district which became effective for all purposes on or after July 1, 1978, shall be calculated by using Schedule E. Schedule E shall be completed as follows:

(a) Line A: Report the name, the 1979–80 second principal average daily attendance, and the number of certificated employees for each continuation high school that had not been approved prior to the 1979–80 fiscal year and which was approved for the 1979–80 fiscal year before November 30, 1979, or for a necessary small high school in a newly organized unified school district which became effective on or after July 1, 1978. Use one line for each school. Attach a copy of the necessary continuation high school approval if continuation high schools are listed. Do not report any high schools that have over 300 units of second principal average daily attendance in 1979–80.

(b) Lines B-1 and B-2: Report the computed foundation programs for each school listed in Line A-1 and A-2. The computed foundation program for each school shall be the lesser of the foundation program amount corresponding to the number of certificated employees or the number of units of average daily attendance shown in the following schedule: Necessary Small High Schools 1977–78

Necessary Small High Schools 1977–78

<i>Certificated Employees</i>	<i>ADA</i>	<i>Foundation Program</i>
1	1–20	\$22,240
2	1–20	44,480
3	1–20	112,020
4	21–40	134,260
5	41–60	156,500
6	61–75	178,740
7	76–90	200,980
8	91–105	223,220
9	106–120	245,460
10	121–135	267,700
11	136–150	289,940
12	151–180	312,180
13	181–220	334,420
14	221–260	356,660
15	261–300	378,900

(c) Line B-3: Add the foundation programs shown in Lines B-1 through B-2 and report this sum on Line B-3.

(d) Line C: Use Line C to report the total second principal average daily attendance shown in Lines A-1 and A-2.

(e) Line D: Multiply the total average daily attendance shown in Line C by \$1,263, and report this product on Line D.

(f) Line E: Subtract the amount in Line D from the amount in Line B-3 and report the result on Line E. This amount is the revenue limit adjustment for necessary small high schools in 1979–80 and shall also be reported on Form K-12 (1979–80), Line C-7b.

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15391. Calculation of Increase in Revenue Limit for Meals for Needy Pupils and Development Centers for Handicapped Pupils Using Schedule G.

The increase in revenue limit for Meals for Needy Pupils and Development Centers for Handicapped Pupils programs authorized by Section

42237 of the Education Code shall be calculated using Schedule G (1979–80). Schedule G shall be completed as follows:

(a) Line A–1: Report the 1978–79 amount for the Meals for Needy Pupils Program on Line J–3 of Schedule B (1979–80).

(b) Line A–2: Report the 1978–79 pupil participation in the Meals for Needy Pupils program, equal to the sum of the amounts shown in Lines 13 and 14 for columns A, B, and C on Forms BCNS 71–5 for each school month in 1978–79. If the district uses Form BCNS–73–6, data on this form shall be used in lieu of data on Form BCNS–71–5.

(c) Line A–3: Compute the 1978–79 amount per pupil, equal to the amount in Line A–1 divided by the amount in Line A–2. Report this result rounded to four decimal places on Line A–3.

(d) Line A–4: Compute the 1979–80 amount per pupil, equal to the amount in Line A–3 times 1.07, and report this amount rounded to four decimal places on Line A–4.

(e) Line A–5: Report the 1979–80 pupil participation in the Meals for Needy Pupils program, equal to the sum of the amounts shown in Lines 13 and 14 for columns A, B, and C on Forms BCNS 71–5 for each school month in 1979–80. If the district uses form BCNS–73–6, data on this form shall be used in lieu of data on Form BCNS–71–5.

(f) Line A–6: Compute the revenue limit adjustment for Meals for Needy Pupils Program, equal to the amount in Line A–4 times the amount in Line A–5. Report this result, rounded to the nearest dollar, on Line A–6.

(g) Line B–1: Report the 1978–79 amount for the Development Centers for Handicapped Pupils program shown on Line J–2 of Schedule B (1978–79).

(h) Line B–2: Report the 1978–79 pupil participation in clock hours in Development Centers for Handicapped Pupils program, as shown on Form J–65, Line V–C, for 1978–79.

(i) Line B–3: Compute the 1978–79 amount per clock hour, equal to the amount in Line B–1 divided by the amount in Line B–2. Report this amount rounded to four decimal places on Line B–3.

(j) Line B–4: Compute the 1979–80 amount per clock hour, equal to the amount in Line B–3 times 1.07, and report this amount rounded to four decimal places on Line B–4.

(k) Line B–5: Report the 1979–80 clock hours for Development Centers for Handicapped Pupils program, as shown on Line V–C of Form J–65 for 1979–80.

(l) Line B–6: Compute the revenue limit adjustment for Development Centers for Handicapped Pupils program, equal to the amount in Line B–4 times the amount in Line B–5. Report this result, rounded to the nearest dollar, on Line B–6.

(m) Line C: Report the total amount to be added to the revenue limit for the Meals for Needy Pupils and Development Centers for Handicapped Pupils programs, equal to the sum of the amounts in Lines A–6 and B–6. Also report this amount on Line C–8 of Form K–12 (1979–80).

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

§ 15392. Calculation of Adult Revenue Limit Using Schedule S.

The 1979–80 adult revenue limit shall be calculated pursuant to Section 42237 of the Education Code using Schedule S (1979–80). Schedule S shall be completed as follows:

(a) Line A: Report the 1978–79 recomputed adult base revenue limit per unit of average daily attendance as shown on Line I of Schedule BB (1979–80).

(b) Line B: Report the 1979–80 average daily attendance in programs for adults mandated by paragraph (5) of subdivision (b) of Section 97 of Chapter 282 of the Statutes of 1979 (AB 8) and by Section 41976 of the Education Code. This shall be known as the 1979–80 mandated adult average daily attendance.

(c) Line C: Compute the 1979–80 revenue limit for adults in mandated programs as follows:

(1) Line C–1: If the amount in Line A is less than the 1978–79 statewide average adult revenue limit computed in Section 15380, multiply

the amount in Line A times 1.07 times the ADA in Line B, and report this result rounded to a whole dollar in Line C–1.

(2) Line C–2: If the amount in Line A is greater than or equal to the 1978–79 statewide average adult revenue limit computed in Section 15380, but less than or equal to 1.07 times the 1978–79 statewide average, then compute an amount equal to 1.07 times that statewide average times the ADA in Line B, and report this result to the nearest dollar in Line C–2.

(3) Line C–3a and b:

(A) Line C–3a: If the amount in Line A is greater than the 1978–79 statewide average adult revenue limit computed in Section 15380 times 1.07, compute the 1979–80 revenue limit as follows. Multiply the amount in Line A by either the 1978–79 adult average daily attendance in mandated programs shown in Line K–4 of Schedule B (1979–80) or the 1979–80 average daily attendance in mandated adult programs shown in Line B, whichever is less, and report the result to the nearest dollar in Line C–3a.

(B) Line C–3b: If the 1978–79 adult average daily attendance in mandated programs shown in Line K–4 of Schedule B (1979–80) is less than the 1979–80 average daily attendance in mandated adult programs shown in Line B, then also compute an amount equal to:

1. The 1978–79 statewide average amount computed in Section 15380 times

2. The factor 1.07 times

3. The 1979–80 average daily attendance in mandated adult programs, minus the 1978–79 average daily attendance in mandated adult programs, and report this result, rounded to a whole dollar, on Line C–3b.

(d) Line D: Report any adjustments to the adult revenue limit. Note that prior-year adjustments pursuant to Education Code Section 42245 shall not be a revenue limit adjustment in the 1979–80 fiscal year for the prior fiscal year, and therefore Line D–1 is not to be used. Any corrections to the 1978–79 adult revenue limit shall be made through the recalculation of the 1978–79 adult revenue limit due February 1980.

(1) Line D–2: Report any gain or loss from interdistrict attendance agreements pursuant to subdivision (d) of Section 46605 of the Education Code. This adjustment is computed in the same manner as that for the K–12 program described in Section 15386(k), but relates only to mandated adult average daily attendance.

(2) Line D–3: Report an increase in the revenue limit to reflect mandated costs imposed by final court orders, federal statutes, or initiative enactments after January 1, 1978, pursuant to Section 42243.6 of the Education Code. If this revenue limit adjustment is used, a letter of explanation shall be sent to the Local Assistance Bureau.

(3) Line D–4: Report the total adjustments to the 1979–80 adult revenue limit, equal to the amount in Line D–2 plus the amount in Line D–3.

(e) Line E: Compute the 1979–80 adult revenue limit, which is equal to either the amount in Line D–4 plus the amount in Line C–1, or the amount in Line C–2, or the sum of the amounts in Lines C–3a and C–3b, depending on the districts' prior-year adult revenue limit. Report this result on Line E and also on Line C–9 of Form K–12 (1979–80).

NOTE: Authority cited: Section 42246, Education Code. Reference: Sections 42237–42245, Education Code.

Subchapter 7. Revenue Limits for County Superintendents of Schools

Article 1. General Provisions

§ 15400. Scope of the Chapter.

The provisions of this chapter apply to the computation of revenue limits for county superintendents of schools pursuant to Article 3 of Chapter 12 of Part 2 of the Education Code (computation of revenue limits, Sections 2550–2558).

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

HISTORY

1. New Chapter 7 (Sections 15400–15408) filed 3–14–80; effective thirtieth day thereafter (Register 80, No. 11).

§ 15401. Definitions.

(a) "Revenue Limits." The revenue limit for county superintendents is a computed amount that places a limit on the amount of revenue that the county superintendent can receive from property taxes, other local sources of income, and from the state for the support of special education programs, special schools and classes, vocational/technical schools and classes, and other specified county school service fund operations (reference Sections 2550–2555, Education Code). The county superintendent may also receive categorical funds, certain property taxes levied for specific indebtedness repayment purposes, and some limited fees in addition to the revenue limit. The revenue limit is computed each year from the prior year's base revenue limit, adjusted for inflation and/or various other factors.

(b) "Categorical Funds." Revenue designated for direct service and other purpose apportionments, contracted income and fees, and funds designated exclusively for the support of a specific program (or programs) which cannot be used to supplant the revenue limit of that program.

(c) "Average Daily Attendance" (hereinafter referred to as ADA). Unless otherwise indicated below, attendance is measured as the count of daily attendance averaged over the school year consisting of at least 175 school days meeting for the minimum length school day as specified in the Education Code. For Regional Occupational Centers/Programs pursuant to Section 41601 (Education Code), the average daily attendance in all full school months in the first period of attendance by a divisor of 70, in the second period by 135, and at annual time by 175. For ROC/Ps, three hours of attendance are equal to one apportionment day of attendance.

(d) "Attendance Periods." There are three attendance periods for each fiscal year. The First Principal attendance period, designated "P1," is the attendance count from July 1 through the last school month that ends on or before December 31 of the fiscal year, and is used to compute the First Principal Apportionment due February 20 of the fiscal year. The Second Principal attendance period, designated "P2," is the attendance count from July 1 through the last school month that ends on or before April 15 of the fiscal year, and is used to compute the Second Principal Apportionment due June 25 of the fiscal year. The annual attendance period, designated "A," is the attendance count from July 1 through June 30 of the fiscal year, and is used to compute the Annual Recalculation of the Apportionment due February 20 of the following fiscal year.

(e) "Excess Costs." Excess costs are any and all costs for a particular program that are in excess of the revenue limit and/or the state and federal allowances for that program.

(f) "Allowed Average Expenditures." The average expenditure per class or ADA, excluding capital outlay, as determined for a designated base fiscal year and increased each year thereafter by an inflation adjustment. Allowed average expenditures are used to establish certain base revenue limits.

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

Article 2. Computation of Revenue Limits for 1979–80

§ 15405. Use of Official Schedules.

The Local Assistance Bureau of the State Department of Education shall provide an official form and schedule to use in making the computations required by this article. This form and schedule shall be known as FORM O, FORM FOR THE COMPUTATION OF 1979–80 REVENUE LIMIT FOR THE COUNTY SCHOOL SERVICE FUND; and SCHEDULE W, SCHEDULE FOR THE COMPUTATION OF 1979–80 REVENUE LIMITS FOR PHYSICALLY HANDICAPPED AND MENTALLY RETARDED PROGRAMS. This form and schedule shall be used in

making these computations and in reporting to the State Department of Education, Local Assistance Bureau.

The Local Assistance Bureau shall issue three sets of official forms and schedules for use in computing 1979–80 revenue limits. These forms and schedules shall have the designations "P-1," "P-2," and "A" and shall be used to collect the data for use in making the First Principal Apportionment, Second Principal Apportionment, and Annual Recalculation of the Apportionment, respectively. The Local Assistance Bureau shall modify the forms and schedules as frequently as may be required, consistent with any legislation enacted subsequent to the approval of these regulations.

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

§ 15406. Use of Estimated or Actual Data.

The 1979–80 data used in computing the revenue limit using the "P-1" form and schedule for the First Principal Apportionment shall be the best available estimates of annual data. The 1979–80 data used in computing the revenue limit using the "P-2" form and schedule for the Second Principal Apportionment shall be the best available estimates of annual data. The 1979–80 data used in computing the revenue limit using the "A" form and schedule for the Annual Recalculation of the Apportionment shall be actual 1979–80 data, including actual annual counts of attendance and participation. Any data required from fiscal year 1978–79 or 1977–78 shall be actual second period data.

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

§ 15407. Computation of 1979–80 Revenue Limits for Physically Handicapped and Mentally Retarded Programs Using Schedule W and Back-Up Schedules WW and T.

For each county superintendent of schools, the Superintendent of Public Instruction shall calculate the 1979–80 revenue limits for physically handicapped and mentally retarded programs using Schedule W. This schedule shall be completed as follows:

(a) Use Schedule W to report data and make separate computations for the following programs (reference Sections 2500b), (c), (d), and 2550(a)(1), Education Code).

(1) Physically Handicapped—Special Day Classes:

- (A) Hearing handicapped
- (B) Vision handicapped
- (C) Orthopedically handicapped—other health impaired
- (D) Aphasic
- (E) Pregnant minors
- (F) Deaf-Blind and other multihandicapped
- (G) Other handicapped
- (H) Autistic

(2) Physically Handicapped—Other Classes:

- (A) Remedial physical education
- (B) Other remedial instruction—speech
- (C) Individual instruction
- (D) Special speech instruction—speech aides
- (E) For the special blind allowance

(3) Mentally Retarded Programs for the Educable Mentally Retarded

(4) Mentally Retarded Programs for the Trainable Mentally Retarded

(b) Column 1: Report on the appropriate program line the 1978–79 allowed average expenditures per class or ADA. This is determined by multiplying the 1977–78 allowed average expenditures per class or ADA times 1.1327 and rounding the result to two decimal places (Reference 1978–79 Worksheet W and Form J-73-W(A)).

(1) Counties which have computed pupil transportation separately from special day class allowed average expenditures in prior years shall complete Schedule WW (P-2). All other counties shall include transportation expenditures in their respective Physically Handicapped and Mentally Retarded programs and shall not complete Schedule WW (P-2).

(2) Those counties completing Schedule WW (P-2) shall prorate to the respective special day classes in column (a) their 1978–79 total transportation expenses which had been reported as a separate program item on

their 1978–79 Schedule J–73 W(A). The county shall report their 1978–79 actual special education transportation allowances in column (b). Column (c) is computed as follows: Determine the allowed adjusted transportation expenditure per special day class programs by subtracting the amount in column (b) from the amount in column (a) and multiply the difference by the adjustment factor (.90). The column (c1) is the sum of column (b) (Special Allowances) and column (c). The county shall report their actual number of 1978–79 ADA transported per respective special class program in column (d). The actual allowed transportation expenditure shall be determined by dividing the amount in column (c1) by the ADA reported in column (d). This quotient is reported in column (e). The county shall report their 1978–80 annual ADA being transported in each respective special class program in column (f) and multiply this ADA by the allowed average transportation expenditure shown in column (e). This product is reported in column (g) Schedule WW (P–2) and column (7) of Schedule W (P–2).

(3) In determining allowed average expenditures per class or ADA for programs involving more than one class size and/or level, it is necessary to develop a weighted average expenditure per class or ADA for such programs.

(4) Those counties that maintained programs but did not tax in prior years shall use the 1977–78 current expenditures per class or ADA for such programs increased by 1.1327.

(5) If a district transfers its physically handicapped or mentally retarded program(s) to the county superintendent of schools pursuant to Section 1710 of the Education Code, the revenue limit of the district shall be reduced by the amount of excess cost which the district expended from its revenue limit for the program(s) in the prior fiscal year. This excess cost shall not include expenditures of income from federal sources of tuition (reference Section 42244.7, Education Code).

If a special education program is transferred from a district to the county superintendent, it is necessary to develop a weighted average expenditure per class or ADA for both the county and the district–operated program.

(6) If the county superintendent started a new program in 1978–79 not previously maintained by the county superintendent or a district within the county, the allowed average expenditures shall be determined by using either the 1977–78 current expenditures of the most similar program already in operation multiplied by 1.1327 or the 1977–78 statewide average expenditure for the program (obtained from the Local Assistance Bureau) multiplied by 1.1327.

(c) Column 2: Report the 1978–79 actual average special allowances, and any federal aid, per class or ADA determined by dividing the sum of the actual 1978–79 annual recalculated special allowances and any actual 1978–79 federal aid for each program by the actual number of classes or ADA for each program as reported in the 1978–79 annual attendance count (Form J–22–A). Report this result carried to two decimal places.

(1) In determining average special allowances per class or ADA for programs involving more than one class size and/or level, it is necessary to develop a weighted average allowance per class or ADA for such programs.

(2) Include federal aid only if the allowed average expenditure base included any such federal aid.

(d) Column 3: Report the 1978–79 deficit adjustment determined by subtracting column 2 from column 1, and multiplying the difference by .90. Report this result carried to two decimal places.

(e) Column 4: Determine the 1978–79 revenue limit per class or ADA by adding column 2 to column 3. Report this result carried to two decimal places.

(f) Column 5: Report the number of classes or ADA as determined for the 1979–80 annual attendance period. (Report to two decimal places if fractional classes are involved.)

(1) If a class is operated for only part of the year, arrive at a fraction of a whole class by dividing the number of days taught for that class by 175 days. Carry the result to two decimal places.

(2) If a class is operated for extended sessions, arrive at an additional fraction of a whole class by dividing the total number of days taught in extended session for that class by 175 days. Carry the result to two decimal places.

(g) Column 6: Determine the 1979–80 base revenue limit per class or ADA by multiplying the 1978–79 allowed average adjusted expenditure reported in column 3 by the 1979–80 annual Class/ADA reported in column 4. Report this result rounded to two decimal places. If the county superintendent starts a new program in 1979–80 not previously maintained by the county superintendent or a district within the county, the revenue limit shall be computed by using either the 1978–79 current expenditures of the most similar program already in operation multiplied by 1.086, or the 1978–79 statewide average expenditure for the program (obtained from the Local Assistance Bureau) multiplied by 1.086.

(h) Column 7: Those counties completing Schedule WW shall report, on column 7 of Schedule W, their total transportation expenditure as reported on column g of Schedule WW.

(i) Column 8: Determine the total 1979–80 revenue limits for physically handicapped and mentally retarded programs by adding column 5 and column 6. Report this result rounded to the nearest dollar. Only the “TOTALS” lines, A & B, in column 7 shall be used to report the total 1979–80 revenue limits for physically handicapped and mentally retarded programs on Form O, lines A–1a and A–1b.

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

HISTORY

1. Amendment History filed 3–28–80 as an emergency; effective upon filing. Certificate of Compliance included (Register 80, No. 13).

§ 15408. Computation of 1979–80 Revenue Limit for County School Service Fund Using Form O.

The Superintendent of Public Instruction shall compute the 1979–80 revenue limit for the county school service fund using Form O. This form shall be completed as follows:

(a) Subdivision A: Determination of the revenue limits for special education programs:

(1) Line A–1: Report the revenue limits for physically handicapped and mentally retarded programs computed in 1979–80 Schedule W as follows:

(A) Line A–1a: Report the revenue limit for physically handicapped programs as shown in 1979–80 Schedule W, column 7, line A, TOTAL PHYSICALLY HANDICAPPED.

(B) Line A–1b: Report the revenue limit for mentally retarded programs as shown in 1979–80 Schedule W, column 7, line B, TOTAL MENTALLY RETARDED.

(C) Line A–1c: Compute the sum of the amounts in lines A–1a and A–1b, and report this result on Line A–1.

(2) Line A–2: Report the revenue limit pursuant to the tuition charges for excess costs in mandated programs (reference Sections 2505 and 2550(a)(2), Education Code). For the county superintendent, whose responsibility it is to educate physically handicapped and mentally retarded students, and who is contracting with another county superintendent of schools or school district for educating its children, and whose ADA is reported by the other county superintendent of schools or school district which provides the education, the county of responsibility shall incorporate the cost of transporting those physically handicapped and mentally retarded students with any excess cost of tuition by completing Schedule T. The county of responsibility shall compute its expenses for transporting those physically handicapped and mentally retarded students attending the other county or district schools on a per ADA basis and add this to the tuition charges for excess cost in mandated programs and report the total for the 1977–78 fiscal year on Line A–2 if applicable. This revenue limit shall be computed as follows:

(A) Line A–2a: Report the total tuition actually paid for the 1977–78 fiscal year for this program.

(B) Line A–2b: Report the actual 1977–78 Second Principal (P–2) ADA in this program.

(C) Line A-2c: Divide the amount in Line A-2a by the attendance in Line A-2b and report this result carried to two decimal places.

(D) Line A-2d: Determine the 1979-80 base revenue limit per ADA by multiplying the amount in Line A-2c by 1.086. Report this result rounded to two decimal places.

(E) Line A-2e: Use the underlined space in Line A-2e to report the 1979-80 annual ADA in this program. Multiply this attendance by the amount in Line A-2d and report this result, rounded to the nearest dollar, on Line A-2.

(3) Line A-3: Report the revenue limit for educationally handicapped pupils in institutions (reference Sections 56604, 42902, and 2550(a)(3), Education Code). This revenue limit shall be computed as follows:

(A) Line A-3a: Report the actual 1977-78 total current expenditures for this program.

(B) Line A-3b: Report the actual 1977-78 Second Principal (P-2) ADA in this program.

(C) Line A-3c: Divide the amount in Line A-3a by the attendance in Line A-3b and report this result carried to two decimal places.

(D) Line A-3d: Determine the 1979-80 revenue limit per ADA by multiplying the amount in Line A-3c by 1.086. Report this result rounded to two decimal places.

(E) Line A-3e: Use the underlined space in Line A-3e to report the 1979-80 annual ADA in this program. Multiply this attendance by the amount in Line A-3d and report this result, rounded to the nearest dollar, on Line A-3.

(4) Line A-4: Report the revenue limit for those institutionalized/foster home students excess costs qualifying pursuant to Section 42904 of the Education Code.

(5) Line A-5: Report the revenue limit for development centers for handicapped pupils (reference Sections 56811 and 2550(a)(4), Education Code). This revenue limit shall be computed as follows:

(A) Line A-5a: Report the actual 1977-78 total expenditures, including transportation expenditures, in this program (reference 1977-78 Form J-73-D, "Cost of Operation for Development Centers").

(B) Line A-5b: Report the actual 1977-78 annual instructional hours in this program (Form J-73-D or J-65).

(C) Line A-5c: Divide the amount in Line A-5a by the amount in Line A-5b and report this result carried to two decimal places.

(D) Line A-5d: Determine the 1979-80 base revenue limit per instructional hour by multiplying the amount in Line A-5c by 1.086. Report this result rounded to two decimal places.

(E) Line A-5e: Use the underlined space in Line A-5e to report the 1979-80 annual instructional hours. Multiply this number of hours by the amount in Line A-5d and report this result rounded to the nearest dollar on Line A-5.

(6) Line A-6: Report the revenue for the planning stage of the coordination of the Master Plan for Special Education (reference Sections 56314 and 2550(a)(5), Education Code). The following classification of counties, as defined by Section 1205 of the Education Code, shall be used in making this computation.

—Class 1 includes all counties with over 750,000 units of average daily attendance.

—Class 2 includes all counties with an average daily attendance of between 140,000 and 749,999 inclusive.

—Class 3 includes all counties with an average daily attendance of between 60,000 and 139,999 inclusive. —Class 4 includes all counties with an average daily attendance of between 30,000 and 59,999 inclusive.

—Classes 5-8 include all counties with an average daily attendance of less than 30,000. The revenue amount, based on attendance counts taken on December 1, 1979, shall be computed as follows:

(A) Class 1 counties: Use the underlined space in Line A-6a to report the 1979-80 count of special education students in the county. Multiply this student count by \$5 and report this result on Line A-6.

(B) Class 2 counties: Use the underlined space in Line A-6b to report the 1979-80 count of special education students in the county. Multiply this student count by \$6 and report this result on Line A-6.

(C) Class 3 counties: Use the underlined space in Line A-6c to report the 1979-80 count of special education students in the county. Multiply this student count by \$7 and report this result on Line A-6.

(D) Class 4 counties: Use the underlined space in Line A-6d to report the 1979-80 count of special education students in the county. Multiply this student count by \$8 and report this result on Line A-6.

(E) Counties of Classes 5-8: Use the underlined space in Line A-6e to report the 1979-80 count of special education students in the county. Multiply this student count by \$10 and report this result on Line A-6.

(7) Line A-7: Compute the sum of the amounts in Lines A-1 through A-6, and multiply the result by .994. Report this result, rounded to the nearest dollar, on Line A.

(b) Subdivision B: Determination of revenue limits for special schools and classes:

(1) Line B-1: Report the revenue limit for the juvenile hall program (reference Sections 2500(e) and 2550(b)(1) and (2), Education Code). This revenue limit shall be computed as follows:

(A) Line B-1a: Report the 1978-79 allowed average expenditures per ADA in this program (determined by multiplying the 1977-78 allowed average expenditures per ADA by 1.1327 and rounding the result to two decimal places). Reference 1978-79 Worksheet W and Form J-73-W(A).

1. In determining allowed average expenditures per ADA for programs involving more than one level, it is necessary to develop a weighted average expenditure per ADA.

2. Those counties that maintained programs but did not tax in prior years shall use the 1977-78 current expenditures for such programs increased by 1.1327.

3. If a district transfers its juvenile hall program to the county superintendent of schools pursuant to Section 1710 of the Education Code, the revenue limit of the district shall be reduced by the amount of excess cost which the district expended from its revenue limit for the program in the prior fiscal year. This excess cost shall not include expenditures of income from federal sources of tuition (reference Section 42244.7, Education Code).

If a juvenile hall program is transferred from a district to the county superintendent, it is necessary to develop a weighted average expenditure per ADA for both the county and the district-operated program.

(B) Line B-1b: Report any 1978-79 federal aid per ADA. Include federal aid only if the allowed average expenditures base included any such federal aid.

(C) Line B-1c: Report the 1978-79 deficit adjustment determined by subtracting Line B-1b from B-1a and multiplying the difference by .90. Report this result carried to two decimal places.

(D) Line B-1d: Determine the 1978-79 revenue limit per ADA by adding Line B-1b to Line B-1c. Report this result carried to two decimal places.

(E) Line B-1e: Determine the 1979-80 base revenue limit per ADA by multiplying the 1978-79 revenue limit reported on Line B-1d by 1.086. Report this result rounded to two decimal places.

(F) Line B-1f: Use the underlined space in Line B-1f to report the 1979-80 annual ADA in this program, including ADA in county community school juvenile hall programs pursuant to Section 1981(c) of the Education Code. Multiply this attendance by the amount in Line B-1e and report this result, rounded to the nearest dollar, on Line B-1.

(G) Funding for type A and B students in County Community Schools E.C. 1981 (a) and (b) will be provided to county superintendent of schools by participating districts. The contribution will be derived by multiplying the district's base revenue limit per unit of ADA (1979-80 Form K, item B-6) times the district's ADA in the county community school. The district's contribution will not be reported on Form O.

(2) Line B-2: Report the 1979-80 allowances for opportunity schools programs (reference Sections 48633, 14057, and 2550(b)(2), Education Code). These allowances shall be computed as follows:

(A) Line B-2a: Use the underlined space in B-2a to report the number of classes or ADA. Report either the classroom computation which is the

product of \$33,750 times the number of 1979–80 elementary classes in this program, or the ADA computation which is the product of \$1,360 times the number of 1979–80 elementary annual ADA in this program. The classroom computation shall be used when the ADA for this program is 100 units or less.

(B) Line B–2b: Use the underlined space in B–2b to report the respective ADA. Report the product of \$1,546 times the 1979–80 high school annual ADA in this program.

(C) Line B–2c: Compute the sum of the amounts in lines B–2a and B–2b and report this result on Line B–2.

(3) Line B–3: Compute the sum of the amounts in lines B–1 and B–2, and multiply the result by .994. Report this result, rounded to the nearest dollar, on Line B.

(c) Subdivision C: Determination of the amount to be allocated for vocational/technical schools and classes:

(1) Line C–1: Report the 1979–80 revenue limit for regional occupational centers and programs (reference Sections 52317 and 2550(c)(1), Education Code). This revenue limit shall be computed as follows:

(A) Line C–1a: Report the actual 1978–79 base revenue limit per ADA for this program, carried to two decimal places, as shown on 1978–79 Schedule Y(a), Line C.

(B) Line C–1b: Report the 1978–79 deficit adjustment determined by multiplying the amount in Line C–1a by .90. Report this result carried to two decimal places.

(C) Line C–1c: Determine the 1979–80 revenue limit per ADA by multiplying the amount in Line C–1b by 1.086. Report this result rounded to two decimal places.

(D) Line C–1d: Use the underlined space in line C–1d to report the 1979–80 annual ADA for concurrently enrolled high school students and for adults enrolled in short-term vocational programs. Multiply this attendance by the amount in Line C–1c and report this result, rounded to the nearest dollar, on Line C–1.

(2) Line C–2: Report the 1979–80 revenue limit for technical, agricultural, and natural resource conservation schools (reference Sections 1806 and 2550(c)(2), Education Code). This revenue limit shall be computed as follows:

(A) Line C–2a: Report the total 1977–78 tax revenues per ADA for this program (determined by dividing the amount shown on 1978–79 Form O(A), Line A–6e, by the 1977–78 actual second principal (P–2) ADA in this program and carrying the result to two decimal places).

(B) Line C–2b: Multiply the amount in Line C–2a by 1.068 and report this result rounded to two decimal places.

(C) Line C–2c: Compute the sum of the amounts in line C–2b and the actual 1978–79 foundation program amount per second principal (P–2) ADA (determined by dividing the foundation program amount shown on 1978–79 Form O(A), Line A–4f, by the 1978–79 actual second principal (P–2) ADA in this program). Report this result carried to two decimal places.

(D) Line C–2d: Report the 1978–79 deficit adjustment determined by multiplying the amount in Line C–2c by .90. Report this result carried to two decimal places.

(E) Line C–2e: Determine the 1979–80 revenue limit per ADA by multiplying the amount in Line C–2d by 1.086. Report this result rounded to two decimal places.

(F) Line C–2f: Use the underlined space in line C–2f to report the 1979–80 annual ADA in this program. Multiply this attendance by the amount in Line C–2e and report this result, rounded to the nearest dollar, on Line C–2.

(3) Line C–3: Report the 1979–80 revenue limit for the outdoor science and conservation program (reference Sections 2520 and 2550(c)(2), Education Code). This revenue limit shall be computed as follows:

(A) Line C–3a: Report the total 1977–78 tax revenues for this program as shown on 1978–79 Form O(A), Line A–6j.

(B) Line C–3b: Multiply the amount in Line C–3a by 1.068 and report this result rounded to the nearest dollar.

(C) Line C–3c: Report the 1978–79 deficit adjustment determined by multiplying the amount in Line C–3b by .90. Report this result carried to the nearest dollar.

(D) Line C–3d: Determine the 1979–80 revenue limit by multiplying the amount in Line C–3c by 1.086. Report this result, rounded to the nearest dollar, on Line C–3.

(4) Line C–4: Compute the sum of the amounts in lines C–1 through C–3, and multiply the result by .994. Report this result, rounded to the nearest dollar, on Line C.

(d) Subdivision D: Determination of the allowances for other county superintendent special schools and classes:

(1) Line D–1: Compute the revenue limit for the county jails program (reference Section 1900, Education Code). This revenue limit shall be equal to the product of (A) (\$1,029 times .8) minus (.01 times the 1979–80 assessed value per ADA for the county)) times (B) the 1979–80 annual ADA in this program. Report this result rounded to the nearest dollar.

(2) Line D–2: Report the 1979–80 amount authorized for handicapped adult programs (reference Section 52570, Education Code). This amount shall be reported only for counties that participated in this program in 1978–79, and shall be based on the 1979–80 ADA actually served under this program by these counties. However, in no case shall the total of the amounts authorized for this program exceed \$50,000.

(3) Line D–3: Report the 1979–80 foundation program amounts for the educationally handicapped programs (reference Sections 14057, 14058, and 56600, Education Code). The foundation amounts reflect an increase equal to that amount which would have been calculated if AB 65 had been continued. This foundation program shall be computed as follows:

(A) Line D–3a: Use the underlined space in Line D–3a to report the number of elementary classes in this program in 1979–80. Compute the product of this number times \$33,750 and report this result, carried to the nearest dollar, on Line D–3a. Use this elementary small school foundation only when half or more of the students are from districts that have less than 901 elementary units of ADA.

(B) Line D–3b: If the elementary small school foundation computation in Line D–3a is not used, use Line D–3b to report the 1979–80 elementary foundation amounts for this program as follows:

1. Use the underlined space in Line D–3b(1) to report the 1979–80 elementary annual ADA for pupils from districts that have less than 901 elementary units of ADA. Multiply this attendance by \$1,350 and report this result, rounded to the nearest dollar, on Line D–3b(1).

2. Use the underlined space in Line D–3b(2) to report the 1979–80 elementary annual ADA for pupils from districts that have over 900 elementary units of ADA. Multiply this attendance by \$1,360 and report this result, rounded to the nearest dollar, on Line D–3b(2).

(C) Line D–3c: Use Line D–3c to report the 1979–80 high school foundation amounts for this program as follows:

1. Use the underlined space in Line D–3c(1) to report the 1979–80 high school annual ADA for pupils from districts that have less than 301 high school units of ADA. Multiply this attendance by \$1,536 and report this result, rounded to the nearest dollar, on Line D–3c(1).

2. Use the underlined space in Line D–3c(2) to report the 1979–80 high school annual ADA for pupils from districts that have over 300 high school units of ADA. Multiply this attendance by \$1,546 and report this result, rounded to the nearest dollar, on Line D–3c(2). (D) Line D–3d: Compute the sum of the amounts in lines D–3a, D–3b, and D–3c, and report this result on Line D–3.

(4) Line D–4: Compute the sum of the amounts in lines D–1 through D–3, and multiply the result by .994. Report this result, rounded to the nearest dollar, on Line D.

(e) Subdivision E: Determination of the revenue limit for other county school service fund operations:

(1) Line E-1: Report the 1979-80 revenue limit for county superintendent office operations (reference Sections 1510 or 2506, and 2551, Education Code). This revenue limit shall be computed as follows:

(A) Line E-1a: Report the total 1977-78 secured, unsecured, and prior-year taxes received pursuant to Section 2506 of the Education Code as shown on 1978-79 Form O(A), Line A-6i.

(B) Line E-1b: Report the total 1977-78 secured, unsecured, and prior-year taxes received from the county board of supervisors pursuant to Section 1510 of the Education Code as shown on 1978-79 Form O(A), Line A-6l.

(C) Line E-1c: Multiply the amount in either Line E-1a or E-1b, as appropriate, by 1.068 and report this result, rounded to the nearest dollar, on Line E-1c.

(D) Line E-1d: Report the 1978-79 deficit adjustment determined by multiplying the amount in Line E-1c by .90. Report this result carried to the nearest dollar.

(E) Line E-1e: Report the difference between the amount paid to the State Teachers' Retirement System in 1978-79 and that paid in 1976-77, pursuant to Section 2507.7 of the Education Code.

(F) Line E-1f: Compute the sum of lines E-1d and E-1e and report the result.

(G) Line E-1g: Determine the 1979-80 base revenue limit by multiplying the amount in line E-1f by 1.086. Report this result rounded to the nearest dollar.

(H) Line E-1h: Report the difference between the amount of unemployment insurance paid in 1979-80 and that paid in 1975-76 pursuant to Section 2507.5 of the Education Code.

(I) Line E-1i: Report the mandated costs paid pursuant to Section 2510 of the Education Code.

(J) Line E-1j: Compute the sum of the amounts in lines E-1g, E-1h, and E-1i, and report this result on Line E-1.

(2) Line E-2: Report the 1979-80 revenue limit for capital outlay (reference Sections 2504 and 2552, Education Code). This revenue limit shall be computed as follows:

(A) Line E-2a: Determine the greatest of:

1. The 1976-77 taxes collected for capital outlay;
2. The 1976-77 expenditures for capital outlay;
3. The 1977-78 taxes collected for capital outlay; or
4. The 1977-78 expenditures for capital outlay.

This result is not to exceed \$.0005 times the modified assessed valuation for the appropriate year. Use the underlined space in Line E-2a to specify the selection and report the result on Line E-2a.

(B) Line E-2b: Determine the 1978-79 revenue limit by multiplying the amount in Line E-2a by 1.086. Report this result, rounded to the nearest dollar, on Line E-2.

(3) Line E-3: Report the 1979-80 billings for the county school tuition program for out-of-state tuition pursuant to Sections 2006 and 2554 of the Education Code.

(4) Line E-4: Report the 1979-80 payments required pursuant to the State Building Aid Law (reference Sections 2503 and 2555, Education Code).

(5) Line E-5: Compute the sum of the amounts in lines E-1 through E-4, and multiply the result by .994. Report this result, rounded to the nearest dollar, on Line E.

(f) Subdivision F: Determination of the total 1979-80 county school service fund revenue limit. Compute the sum of the amounts in lines A, B, C, D, and E, and report this result in Line F.

(g) Subdivision G: Determination of 1979-80 sources of revenue:

(1) Line G-1: Report the 1979-80 secured tax collections pursuant to Section 26912 of the Government Code, excluding all subventions.

(2) Line G-2: Report the 1979-80 unsecured tax collections pursuant to Section 26912 of the Government Code, excluding all subventions.

(3) Line G-3: Report the 1979-80 homeowners exemption (HOX) and the business inventory exemption (BIX) income from both the secured and unsecured tax rolls.

(4) Line G-4: Report the 1979-80 tax collections for subventions, other than homeowners and business inventory exemptions, pursuant to Section 41052 of the Education Code and Section 992 of the Revenue and Taxation Code.

(5) Line G-5: Report the 1979-80 equalization offset tax income including any prior year balances in this fund (reference Section 2556, Education Code).

(6) Line G-6: Report any amounts that county superintendent of schools was required to maintain as restricted and not available for expenditures in the 1978-79 fiscal year pursuant to Section 2558(b)(5) of the Education Code. This is the negative amount shown on 1978-79 Form O(A), Line D, which is the excess of the 1978-79 State Block Grant over the total 1978-79 revenue limit. This amount shall be reported as a positive amount on Line G-6.

(7) Line G-7: Report the 1979-80 Timber Tax Yield paid by the State Controller pursuant to Section 41760.5 of the Education Code and Section 38906 of the Revenue and Taxation Code.

(8) Line G-8: Report the 1979-80 prior-year tax collections.

(A) Line G-8a: Report the 1979-80 regular prior-year taxes.

(B) Line G-8b: Report the amount of released prior-year tax im-pounds for 1979-80.

(9) Line G-9: Report the 1979-80 special education district billings pursuant to Section 1705 of the Education Code and for excess costs.

(A) Line G-9a: Report the physically handicapped district billings pursuant to Section 1705 of the Education Code and for excess costs.

(B) Line G-9b: Report the mentally retarded district billings pursuant to Section 1705 of the Education Code and for excess costs.

(C) Line G-9c: Report the Educationally Handicapped district billings pursuant to Section 1705 of the Education Code.

(10) Line G-10: Report the 1979-80 district revenue limit contributions to the county regional occupational center or program. These district contributions shall be equal to the district's revenue limit or the revenue limit of the county ROC/P, whichever is less, multiplied by the district P-2 ADA in this program.

(A) Line G-10a: Report the district contributions for adults enrolled in short-term vocational programs.

(B) Line G-10b: Report the district contributions for concurrently enrolled students.

(11) Line G-11: Report the 1979-80 receipts from the county board of supervisors pursuant to Section 1510 of the Education Code.

(12) Line G-12: Report the 1979-80 state categorical aid specified as special allowances. This includes class or ADA allowances for physically handicapped and mentally retarded programs, attendance allowances for development centers for the handicapped, and transportation allowances for physically handicapped, trainable mentally retarded, and development centers for the handicapped programs.

(13) Line G-13: Report the 1979-80 federal categorical aid.

(14) Line G-14: Report any 1979-80 income from other sources such as the community college tuition fund pursuant to Section 2104 of the Education Code.

(15) Line G-15: Compute the sum of lines G-1 through G-14 and report this result on Line G.

(h) Subdivision H: Determination of the state aid portion of the revenue limit for 1979-80. Subtract Line G from Line F and report the result on Line H. If this result is negative, no state aid shall be apportioned to the county superintendent of schools. This negative amount of funds shall be deemed restricted and not available for expenditures during the current fiscal year. In the next fiscal year, this negative amount shall be

considered to be local property tax revenue for the 1980–81 fiscal year, pursuant to Section 2558(d) of the Education Code.

NOTE: Authority and reference cited: Sections 2550–2558, Education Code.

Subchapter 8. Criteria and Standards for School District Budgets and Interim Reports

Article 1. Budget Review

§ 15440. General.

(a) School districts shall use the following criteria and standards (beginning with section 15441) and supplemental information (beginning with section 15452) in the development of their annual budgets. The county superintendent of schools will review the school district's budget to determine whether it complies with the criteria and standards.

(b) The budget review includes an analysis of ten criteria, with standards, and additional information about the status of the budget. The ten criteria are average daily attendance (ADA), enrollment, ADA to enrollment, revenue limit, salaries and benefits, other revenues and expenditures, facilities maintenance, deficit spending, fund balance, and reserves. School district budgets are measured against the standards for each of these criteria. In addition to the criteria and standards, the review must identify additional information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, use of ongoing revenues for one-time expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, and the status of labor agreements. Deviations from the standards must be explained, and may affect the approval of the budget.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of subsection (b) filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of subchapter heading, article heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15441. Average Daily Attendance (ADA).

Funded ADA has not been overestimated in the first prior fiscal year or in two or more of the previous three fiscal years by more than the following percentage levels:

3%	for districts with 0–300 ADA
2%	for districts with 301–1,000 ADA
1%	for districts with 1,001 and over ADA

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15442. Enrollment.

Projected enrollment has not been overestimated in the first prior fiscal year or in two or more of the previous three fiscal years by more than the following percentage levels:

3%	for districts with 0–300 ADA
2%	for districts with 301–1,000 ADA
1%	for districts with 1,001 and over ADA

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and section filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15443. Average Daily Attendance to Enrollment.

Projected second period ADA to enrollment ratio for any of the budget year or two subsequent fiscal years has not increased from the historical average ratio from the three prior fiscal years by more than one half of one percent.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer and new section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15444. Revenue Limit.

Projected revenue limit for any of the budget year or two subsequent fiscal years has not changed from the prior fiscal year by more than the change in population and the funded cost of living adjustment plus or minus one percent.

For basic aid districts, projected revenue limit has not changed from the prior fiscal year by more than the percent change in property tax revenues plus or minus one percent.

For districts funded by necessary small school formulas, projected revenue limit has not changed from the prior fiscal year amount by more than the funded cost of living adjustment plus or minus one percent.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer and new section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15445. Salaries and Benefits.

Projected ratio of total unrestricted salaries and benefits to total unrestricted general fund expenditures for any of the budget year or two subsequent fiscal years has not changed from the historical average ratio from the three prior fiscal years by more than the greater of three percent or the district's required reserves percentage.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).

4. Repealer of article 2 heading and repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15446. Other Revenues and Expenditures.

Projected operating revenues (including federal, other state and other local) or expenditures (including books and supplies, and services and other operating) for any of the budget year or two subsequent fiscal years, have not changed from the prior fiscal year amount by more than the percentage change in population and the funded cost of living adjustment plus or minus ten percent.

For each major object category, changes that exceed the percentage change in population and the funded cost of living adjustment plus or minus five percent must be explained.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15447. Facilities Maintenance.

Confirm that the annual contribution for facilities maintenance funding is not less than the amounts required pursuant to Education Code sections 17584 and 17070.75, if applicable.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Sections 17070.75, 17584 and 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2000, No. 40.

§ 15448. Deficit Spending.

(a) Unrestricted deficit spending (total unrestricted expenditures and other financing uses is greater than total unrestricted revenues and other financing sources) as a percentage of total unrestricted expenditures and other financing uses, has not exceeded one-third of the district's available reserves as a percentage of total expenditures and other financing uses in two out of three prior fiscal years.

(b) For purposes of this section, available reserves are the unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the General Fund and the Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the General Fund.

(c) For purposes of this section, a school district that serves as the Administrative Unit (AU) of a Special Education Local Plan Area (SELPA) may exclude from its expenditures the distribution of funds to its participating members.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15449. Fund Balance.

(a) Budgeted beginning unrestricted general fund balance has not been overestimated for two out of three prior fiscal years by more than the following percentage levels:

1.7%	for districts with 0-300 ADA
1.3%	for districts with 301-1,000 ADA
1.0%	for districts with 1,001-30,000 ADA
0.7%	for districts with 30,001-400,000 ADA
0.3%	for districts with 400,001 and over ADA

(b) For purposes of this section, the percentage levels equate to a rate of deficit spending which would eliminate recommended reserves for economic uncertainties over a three year period.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15450. Reserves.

(a) Available reserves for any of the budget year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:

the greater of 5% or \$55,000	for districts with 0-300 ADA
the greater of 4% or \$55,000	for districts with 301-1,000 ADA
3%	for districts with 1,001-30,000 ADA
2%	for districts with 30,001-400,000 ADA
1%	for districts with 400,001 and over ADA

(b) For purposes of this section, the following shall apply:

(1) Available reserves are the unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the General Fund and the Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the General Fund.

(2) A school district that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

(3) The dollar amounts are to be adjusted annually by the prior year statutory cost of living adjustment (Education Code section 42238), rounded to the nearest thousand.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Sections 33128 and 42238, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15451. Supplemental Information.

(a) School districts shall provide supplemental information in the following general areas:

(1) Provide the methodology and assumptions used to estimate ADA, enrollment, revenues, expenditures, reserves and fund balance, and multiyear commitments (including cost of living adjustments).

(2) Provide information on additional indicators as requested.

(b) School districts shall provide supplemental information in the following specific areas:

(1) Contingent Liabilities. Identify any known or contingent liabilities from financial or program audits, state compliance reviews, litigation, etc., that may impact the budget.

(2) Use of One-time Revenues for Ongoing Expenditures. Identify any ongoing general fund expenditures in excess of one percent of the total general fund expenditures that are funded with one-time resources in the budget year, and explain how the one-time resources will be replaced to continue funding the ongoing expenditures in the following fiscal years.

(3) Use of Ongoing Revenues for One-time Expenditures. Identify any large nonrecurring general fund expenditures that are funded with ongoing general fund revenues.

(4) **Contingent Revenues.** Identify projected revenues for the budget year and two subsequent fiscal years that are contingent on reauthorization by the local government, special legislation, or other definitive act (e.g. parcel taxes). If any of these revenues are dedicated for ongoing expenses, explain how the revenues will be replaced or the expenditures reduced.

(5) **Contributions.** Provide information regarding contributions as follows:

(A) Identify projected contributions from unrestricted resources in the general fund to restricted resources in the general fund for the budget year and two subsequent fiscal years. Provide an explanation if contributions have changed from the prior fiscal year amounts by more than \$20,000 and more than ten percent. An explanation should include whether contributions are ongoing or one-time in nature.

(B) Identify projected transfers to or from the general fund to cover operating deficits in either the general fund or any other fund for the budget year and two subsequent fiscal years. Provide an explanation if transfers have changed from the prior fiscal year amounts by more than \$20,000 and more than ten percent. An explanation should include whether transfers are ongoing or one-time in nature.

(C) Estimate the impact of any capital projects on the general fund operational budget.

(6) **Long-term Commitments.** Provide information regarding long-term commitments as follows:

(A) Identify all existing and new multiyear commitments (include multiyear commitments, multiyear debt agreements, and new programs or contracts that result in long-term obligations) and their annual required payment for the budget year and two subsequent fiscal years.

(B) Explain how any increase in annual payments will be funded. Also explain how any decrease to funding sources used to pay long-term commitments will be replaced.

(7) **Unfunded Liabilities.** Provide information regarding unfunded liabilities as follows:

(A) Estimate the unfunded liability for post employment benefits other than pensions (OPEB) based on an actuarial valuation, if required, or other method; identify or estimate the annual required contribution; and indicate how the obligation is funded (pay-as-you-go, amortized over a specific period, etc.).

(B) Estimate the unfunded liability for self-insurance programs such as workers' compensation based on an actuarial valuation, if required, or other method; identify or estimate the required contribution; and indicate how the obligation is funded (level of risk retained, funding approach, etc.).

(8) **Status of Labor Agreements.** Analyze the status of employee labor agreements, including the following:

(A) Identify new labor agreements, as well as new commitments provided as part of previously ratified multiyear agreements; and include all contracts, including all administrator contracts (and including all compensation). For new agreements, indicate the date of the required board meeting.

(B) Compare the increase in new commitments to the projected increase in ongoing revenues, and explain how these commitments will be funded in future fiscal years.

(C) If salary and benefit negotiations are not finalized at budget adoption, upon settlement with certificated or classified staff:

1. The school district must determine the cost of the settlement, including salaries, benefits, and any other agreements that change costs, and provide the county office of education with an analysis of the cost of the settlement and its impact on the operating budget.

2. The county superintendent of schools shall review the analysis relative to the criteria and standards, and may provide written comments to the president of the district governing board and superintendent.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Section 33128, Education Code; and Sections 3540.2 and 3547.5, Government Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer and new section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15452. Supplemental Information. [Repealed]

NOTE: Authority cited: Section 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer and new section heading and section filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

Article 2. Interim Report Review

§ 15453. General.

(a) School districts shall conduct a review of their budgets at Interim Report time in accordance with the following criteria and standards (beginning with section 15454) and supplemental information (beginning with section 15464). The county superintendent of schools will review the school district's Interim Report using the criteria and standards.

(b) The school district superintendent shall submit two interim reports to its governing board during each fiscal year. Both interim reports shall be approved by the district's governing board along with a certification on whether their school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the two subsequent fiscal years. The certification shall be based on the governing board's assessment and the criteria and standards. The certification shall be classified as positive, qualified, or negative.

(1) A positive certification indicates that, based on current projections the school district will meet its financial obligations for the current fiscal year and two subsequent fiscal years.

(2) A qualified certification indicates that, based on current projections the school district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years.

(3) A negative certification indicates that, based on current projections the school district will be unable to meet its financial obligations for the remainder of the current fiscal year or the subsequent fiscal year.

(c) The review includes an analysis of ten criteria, with standards, and supplemental information about the status of the budget at Interim Report time. The ten criteria are fund and cash balances, reserves, deficit spending, ADA, enrollment, ADA to enrollment, revenue limit, salaries and benefits, other revenues and expenditures, and facilities maintenance. Each of these criteria has a standard by which it is measured. In addition to the criteria and standards, the review must identify additional information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, temporary interfund borrowings, status of labor agreements, and the status of other funds. Deviations from the standards must be explained, and may affect the interim certification.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

3. Amendment of subsection (b) filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer of subchapter 9 heading and article 1 heading, new article 2 heading and amendment of section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15454. Fund and Cash Balances.

Projected general fund balances will be positive at the end of the current fiscal year and two subsequent fiscal years and the projected general fund cash balance will be positive at the end of the current fiscal year.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and section filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15455. Reserves.

(a) Available reserves for any of the current fiscal year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:

the greater of 5% or \$55,000 for districts with 0–300 ADA
 the greater of 4% or \$55,000 for districts with 301–1,000 ADA
 3% for districts with 1,001–30,000 ADA
 2% for districts with 30,001–400,000 ADA
 1% for districts with 400,001 and over ADA

(b) For purposes of this section, the following shall apply:

(1) Available reserves are the unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the General Fund and the Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the General Fund.

(2) A school district that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

(3) The dollar amounts are to be adjusted annually by the prior year statutory cost of living adjustment (Education Code section 42238), rounded to the nearest thousand.

NOTE: Authority cited: Sections 33127, 33128, 33129 and 33131, Education Code. Reference: Sections 33128 and 42238, Education Code.

HISTORY

1. New section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2000, No. 40.

§ 15456. Deficit Spending.

(a) Unrestricted deficit spending (total unrestricted expenditures and other financing uses is greater than total unrestricted revenues and other financing sources) as a percentage of total unrestricted expenditures and other financing uses, has not exceeded one-third of the district's available reserves as a percentage of total expenditures and other financing uses in any of the current fiscal year or two subsequent fiscal years.

(b) For purposes of this section, the following shall apply:

(1) Available reserves are the unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the General Fund and the Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the General Fund.

(2) A school district that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer and new section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15457. Average Daily Attendance.

(a) Funded ADA for any of the current fiscal year or two subsequent fiscal years has not changed by more than two percent since budget adoption.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of subsection (a) filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer and new section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15458. Enrollment.

(a) Projected enrollment for any of the current fiscal year or two subsequent fiscal years has not changed by more than two percent since budget adoption.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15459. ADA to Enrollment.

Projected second period ADA to enrollment ratio for any of the current fiscal year or two subsequent fiscal years has not increased from the historical average ratio from three prior fiscal years by more than one half of one percent.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer and new section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15460. Revenue Limit.

(a) Projected revenue limit for any of the current fiscal year or two subsequent fiscal years has not changed by more than two percent since budget adoption.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15461. Salaries and Benefits.

Projected ratio of total unrestricted salaries and benefits to total unrestricted general fund expenditures for any of the current fiscal year or two subsequent fiscal years has not changed from the historical average ratio from the three prior fiscal years by more than the greater of three percent or the district's required reserves percentage.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15462. Other Revenues and Expenditures.

(a) Projected operating revenues (including federal, other state and other local) or expenditures (including books and supplies, and services and other operating) for any of the current fiscal year or two subsequent fiscal years, have not changed by more than five percent since budget adoption.

(b) Changes that exceed five percent in any major object category must be explained.

(c) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section heading and section filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15463. Facilities Maintenance.

(a) Identify changes that have occurred since budget adoption in the projected contributions for facilities maintenance funding as required pursuant to Education Code sections 17584 and 17070.75.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 33127, 33129 and 42131, Education Code. Reference: Sections 17070.75, 17584 and 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
4. Repealer and new section and amendment of NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15464. Supplemental Information.

(a) School districts shall provide supplemental information in the following general areas:

(1) Provide the methodology and assumptions used to estimate ADA, enrollment, revenues, expenditures, reserves and fund balance, and multiyear commitments (including cost of living adjustments).

(2) Provide information on additional indicators as requested.

(b) School districts shall provide supplemental information in the following specific areas:

(1) Contingent Liabilities. Identify any known or contingent liabilities from financial or program audits, state compliance reviews, litigation, etc., that have occurred since budget adoption that may impact the budget.

(2) Use of One-Time Revenues for Ongoing Expenditures. Identify ongoing general fund expenditures funded by one-time revenues that have changed by more than five percent since budget adoption. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections).

(3) Contingent Revenues. Identify projected revenues for the current fiscal year and two subsequent fiscal years that are contingent on reauthorization by the local government, special legislation, or other definitive act (e.g., parcel taxes). If any of these revenues are dedicated for ongoing expenses, explain how the revenues will be replaced or the expenditures reduced.

(4) Contributions. Provide information regarding contributions as follows:

(A) Identify projected contributions from unrestricted resources in the general fund to restricted resources in the general fund for the current fiscal year and two subsequent fiscal years. Provide an explanation if contributions have changed by more than \$20,000 and more than five percent since budget adoption. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections).

(B) Identify projected transfers to or from the general fund to cover operating deficits in either the general fund or any other fund for the current fiscal year and two subsequent fiscal years. Provide an explanation if transfers have changed by more than \$20,000 and more than five percent since budget adoption. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections).

(C) Identify capital project cost overruns that have occurred since budget adoption that may impact the general fund budget. (For this purpose, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.)

(5) Long-Term Commitments. Provide information regarding long-term commitments as follows:

(A) Identify all existing and new multiyear commitments (include multiyear commitments, multiyear debt agreements, and new programs or contracts that result in long-term obligations) and their annual required payment, for the current fiscal year and two subsequent fiscal years.

(B) Explain how any increase in annual payments will be funded. Also explain how any decrease to funding sources used to pay long-term commitments will be replaced.

(6) Unfunded Liabilities. Identify any changes in estimates for unfunded liabilities since budget adoption, and indicate whether the changes are the result of a new actuarial valuation. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections).

(7) Temporary Interfund Borrowings. Identify projected temporary borrowings between funds (refer to Education Code section 42603).

(8) Status of Labor Agreements. Analyze the status of employee labor agreements, including the following:

(A) Identify new labor agreements that have been ratified since budget adoption, as well as new commitments provided as part of previously ratified multiyear agreements; and include all contracts, including all administrator contracts (and including all compensation). For new agreements, indicate the date of the required board meeting. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections).

(B) Compare the increase in new commitments to the projected increase in ongoing revenues, and explain how these commitments will be funded in future fiscal years.

(C) If salary and benefit negotiations are not finalized, upon settlement with certificated or classified staff:

1. The school district must determine the cost of the settlement, including salaries, benefits, and any other agreements that change costs, and provide the county office of education with an analysis of the cost of the settlement and its impact on the operating budget.

2. The county superintendent of schools shall review the analysis relative to the criteria and standards, and may provide written comments to the president of the district governing board and the district superintendent.

(9) Status of Other Funds. Analyze the status of other funds that may have negative fund balances at the end of the current fiscal year. If any other fund has a projected negative fund balance, prepare an interim report and multiyear projection for that fund. Explain plans for how and when the negative fund balance will be addressed.

NOTE: Authority cited: Sections 33127 and 33129, Education Code. Reference: Sections 33128 and 42603, Education Code; and Sections 3540.2 and 3547.5, Government Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2000, No. 40.

§ 15465. Cash Balance.

NOTE: Authority cited: Sections 33127, 33129 and 35014, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

§ 15466. Supplemental Information.

NOTE: Authority cited: Sections 33127, 33129 and 35014, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

Subchapter 9. Criteria and Standards for County Office of Education Budgets and Interim Reports

Article 1. Budget Review

§ 15467. General.

(a) County offices of education shall use the following criteria and standards (beginning with section 15468) and supplemental information (beginning with section 15475) in the development of their annual budgets. The State Superintendent of Public Instruction (SSPI) will review the county office of education's budget to determine whether it complies with the criteria and standards.

(b) The budget review includes an analysis of eight criteria, with standards, and additional information about the status of the budget. The eight criteria are ADA, revenue limit, salaries and benefits, other revenues and expenditures, facilities maintenance, deficit spending, fund balance, and reserves. County office budgets are measured against a standard for each of these criteria. In addition to the criteria and standards, the review must identify additional information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, use of ongoing revenues for one-time expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, and the status of labor agreements. Deviations from the standards must be explained, and may affect the approval of the budget.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of subsection (b) filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Renumbering and amendment of former subchapter 10 to subchapter 9 and amendment of article 1 heading and section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15468. Average Daily Attendance.

(a) Projected countywide other purpose ADA has not been overestimated in the first prior fiscal year or in two or more of the previous three fiscal years by more than the following percentage levels:

3.0%	for counties with under 7,000 ADA
2.0%	for counties with 7,000 through 59,999 ADA
1.0%	for counties with over 59,999 ADA

(b) Projected ADA for county operated programs for any of the budget year or two subsequent fiscal years has not increased from the historical average from the three prior fiscal years by more than two percent each year.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Sections 1205 and 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
3. Amendment of section and NOTE filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15469. Revenue Limit.

(a) Projected revenue limit for any of the budget year or two subsequent fiscal years has not changed from the prior fiscal year by more than

the change in population and the funded cost of living adjustment (COLA) plus or minus one percent.

(b) For excess property tax counties, projected revenue limit has not changed from the prior fiscal year by more than the percent change in property tax revenues plus or minus one percent.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2001, No. 38.

§ 15470. Special Education Entitlement.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

§ 15471. Salaries and Benefits.

Projected total salaries and benefits for any of the budget year or two subsequent fiscal years has not changed from the prior fiscal year amount by more than the change in funded COLA plus or minus five percent.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2001, No. 38.

§ 15471.1. Other Revenues and Expenditures.

(a) Projected operating revenues (including federal, other state and other local) or expenditures (including books and supplies, and services and other operating) for any of the budget year or two subsequent fiscal years, have not changed from the prior fiscal year amount by more than the change in funded COLA plus or minus ten percent.

(b) For each major object category, changes that exceed the percentage change in funded COLA plus or minus five percent must be explained.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15471.2. Facilities Maintenance.

Confirm that the annual contribution for facilities maintenance funding is not less than the amounts required pursuant to Education Code sections 17584 and 17070.75.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Sections 17070.75, 17584 and 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15472. Deficit Spending.

(a) Unrestricted deficit spending (total unrestricted expenditures and other financing uses is greater than total unrestricted revenues and other financing sources) as a percentage of total unrestricted expenditures and other financing uses, has not exceeded one-third of the county office's available reserves as a percentage of total expenditures and other financing uses in two out of three prior fiscal years.

(b) For purposes of this section, the following shall apply:

(1) Available reserves from the Juvenile Court/County Community Schools and Regional Occupational Centers/Programs may be included, up to the applicable percentage of program expenditures. Funds designated as reserves for this purpose continue to be restricted for use only in those programs. Also, available reserves are unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unap-

propriated accounts in the County School Service Fund and Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the County School Service Fund.

(2) A county office of education that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and section filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15473. Fund Balance.

(a) Budgeted beginning unrestricted county school service fund balance has not been overestimated for two out of three prior fiscal years by more than the following percentage levels:

1.7% for counties with total expenditures and other financing uses of less than \$4,895,000

1.3% for counties with total expenditures and other financing uses of \$4,895,000 through \$12,235,999.

1.0% for counties with total expenditures and other financing uses of \$12,236,000 through \$55,064,000.

0.7% for counties with total expenditures and other financing uses of over \$55,064,000.

(b) For purposes of this section, the following shall apply:

(1) A county office of education that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

(2) Percentage levels equate to a rate of deficit spending which would eliminate recommended reserves for economic uncertainties over a three year period.

(3) The dollar amounts are to be adjusted annually by the prior year statutory cost of living adjustment calculated pursuant to Education Code section 2557, rounded to the nearest thousand.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2001, No. 38.

§ 15474. Reserves.

(a) Available reserves for any of the budget year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:

the greater of 5% or \$55,000 for counties with total expenditures and other financing uses of less than \$4,895,000.

the greater of 4% or \$245,000 for counties with total expenditures and other financing uses of \$4,895,000 through \$12,235,999.

the greater of 3% or \$489,000 for counties with total expenditures and other financing uses of \$12,236,000 through \$55,064,000.

the greater of 2% or \$1,652,000 for counties with total expenditures and other financing uses of over \$55,064,000.

(b) For purposes of this section, the following shall apply:

(1) Available reserves from the Juvenile Court/County Community Schools and Regional Occupational Centers/Programs may be included, up to the applicable percentage of program expenditures. Funds designated as reserves for this purpose continue to be restricted for use only in those programs. Also, available reserves are unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the County School Service Fund and Special Re-

serve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the County School Service Fund.

(2) A county office of education that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

(3) The dollar amounts are to be adjusted annually by the prior year statutory cost of living adjustment calculated pursuant to Education Code section 2557, rounded to the nearest thousand.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
3. Amendment filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15475. Supplemental Information.

(a) County offices of education shall provide supplemental information in the following general areas:

(1) Provide the methodology and assumptions used to estimate ADA, enrollment, revenues, expenditures, reserves and fund balance, and multiyear commitments (including cost of living adjustments).

(2) Provide information on additional indicators as requested.

(b) County offices of education shall provide supplemental information in the following specific areas:

(1) Contingent Liabilities. Identify any known or contingent liabilities from financial or program audits, state compliance reviews, litigation, etc., that may impact the budget.

(2) Use of One-time Revenues for Ongoing Expenditures. Identify any ongoing county school service fund expenditures in excess of one percent of the total county school service fund expenditures that are funded with one-time resources in the budget year, and explain how the one-time resources will be replaced to continue funding the ongoing expenditures in the following fiscal years.

(3) Use of Ongoing Revenues for One-time Expenditures. Identify any large nonrecurring county school service fund expenditures that are funded with ongoing county school service fund revenues.

(4) Contingent Revenues. Identify projected revenues for the budget year and two subsequent fiscal years that are contingent on reauthorization by the local government, special legislation, or other definitive act (e.g. parcel taxes). If any of these revenues are dedicated for ongoing expenses, explain how the revenues will be replaced or the expenditures reduced.

(5) Contributions. Provide information regarding contributions as follows:

(A) Identify projected contributions from unrestricted resources in the county school service fund to restricted resources in the county school service fund for the budget year and two subsequent fiscal years. Provide an explanation if contributions have changed from prior fiscal year amounts by more than \$20,000 and more than ten percent. An explanation should include whether contributions are ongoing or one-time in nature.

(B) Identify projected transfers to or from the county school service fund to cover operating deficits in either the county school service fund or any other fund for the budget year and two subsequent fiscal years. Provide an explanation if transfers have changed from the prior year amounts by more than \$20,000 and more than ten percent. An explanation should include whether transfers are ongoing or one-time in nature.

(C) Estimate the impact of any capital projects on the county school service fund operational budget.

(6) Long-term Commitments. Provide information regarding long-term commitments as follows:

(A) Identify all existing and new multiyear commitments (include multiyear commitments, multiyear debt agreements, and new programs or contracts that result in long-term obligations) and their annual required payment for the budget year and two subsequent fiscal years.

(B) Explain how any increase in annual payments will be funded. Also explain how any decrease to funding sources used to pay long-term commitments will be replaced.

(7) Unfunded Liabilities. Provide information regarding unfunded liabilities as follows:

(A) Estimate the unfunded liability for post employment benefits other than pensions (OPEB) based on an actuarial valuation, if required, or other method; identify or estimate the annual required contribution; and indicate how the obligation is funded (pay-as-you-go, amortized over a specific period, etc.).

(B) Estimate the unfunded liability for self-insurance programs such as workers' compensation based on an actuarial valuation, if required, or other method; identify or estimate the required contribution; and indicate how the obligation is funded (level of risk retained, funding approach, etc.).

(8) Analyze the status of labor agreements, including the following:

(A) Identify new labor agreements, as well as new commitments provided as part of previously ratified multiyear agreements; and include all contracts, including all administrator contracts (and including all compensation). For new agreements, indicate the date of the required board meeting.

(B) Compare the increase in new commitments to the projected increase in ongoing revenues, and explain how these commitments will be funded in future fiscal years.

(C) If salary and benefit negotiations are not finalized at budget adoption, upon settlement with certificated or classified staff:

(1) The county office must determine the cost of the settlement, including salaries, benefits, and any other agreements that change costs, and provide the California Department of Education (CDE) with an analysis of the cost of the settlement and its impact on the operating budget.

(2) The CDE shall review the analysis relative to the criteria and standards, and may provide written comments to the president of the governing board and the county superintendent of schools.

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code; Sections 3540.2 and 3547.5, Government Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section and NOTE filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

Article 2. Interim Report Review

§ 15476. General. [Repealed]

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9-19-2001; operative 9-19-2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of article heading and repealer of section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15477. Other Revenue. [Repealed]

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15478. Other Operating Expenses. [Repealed]

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15479. Other Sources and Uses. [Repealed]

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15479.5. Supplemental Information. [Repealed]

NOTE: Authority cited: Sections 1621, 1622, 1623, 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
2. Repealer filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15480. General.

(a) County offices of education shall conduct a review of their budgets at Interim Report time in accordance with the following criteria and standards and supplemental information (beginning with section 15481) and supplemental information (beginning with section 15493). The SSPI will review the county office's Interim Report using the criteria and standards.

(b) The county superintendent of schools shall submit two interim reports to its governing board during each fiscal year. Both interim reports shall be reviewed by the county board of education and approved by the county superintendent of schools, who shall certify whether their county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecast, for two subsequent fiscal years. The certification shall be based on the criteria and standards and shall be classified as positive, qualified, or negative.

(1) A positive certification indicates that, based on current projections the county office of education will meet its financial obligations for the current fiscal year and two subsequent fiscal years.

(2) A qualified certification indicates that, based on current projections the county office of education may not meet its financial obligations for the current fiscal year or two subsequent fiscal years.

(3) A negative certification indicates that, based on current projections the county office of education will be unable to meet its financial obligations for the remainder of the current fiscal year or the subsequent fiscal year.

(b) The review includes an analysis of eight criteria, with standards, and supplemental information about the status of the budget at Interim Report time. The eight criteria are fund and cash balances, reserves, deficit spending, ADA, revenue limit, salaries and benefits, other revenues and expenditures, and facilities maintenance. Each of these criteria has a standard by which it is measured. In addition to the criteria and stan-

dards, the review must identify additional information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, temporary interfund borrowings, the status of labor agreements, and the status of other funds. Deviations from the standards must be explained, and may affect the interim certification.

NOTE: Authority cited: Sections 1240(i), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer of subchapter 11 heading and article 1 heading and amendment of section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15481. Fund and Cash Balances.

Projected county school service fund balances will be positive at the end of the current fiscal year and two subsequent fiscal years and the projected county school service fund cash balance will be positive at the end of the current fiscal year.

NOTE: Authority cited: Sections 1240(j), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading, section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15482. Fund Balance.

NOTE: Authority cited: Sections 33127, 33129 and 1240(j), Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

§ 15483. Reserves.

(a) Available reserves for any of the current fiscal year or two subsequent fiscal years are not less than the following percentages or amounts as applied to total expenditures and other financing uses:

- the greater of 5% or \$55,000 for counties with total expenditures and other financing uses of less than \$4,895,000.
- the greater of 4% or \$245,000 for counties with total expenditures and other financing uses of \$4,895,000 through \$12,235,999.
- the greater of 3% or \$489,000 for counties with total expenditures and other financing uses of \$12,236,000 through \$55,064,000.
- the greater of 2% or \$1,652,000 for counties with total expenditures and other financing uses of over \$55,064,000.

(b) For purposes of this section, the following shall apply:

(1) Available reserves from the Juvenile Court/County Community Schools and Regional Occupational Centers/Programs may be included, up to the applicable percentage of program expenditures. Funds designated as reserves for this purpose continue to be restricted for use only in those programs. Also, available reserves are unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the County School Service Fund and Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the County School Service Fund.

(2) A county office of education that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

(3) The dollar amounts are to be adjusted annually by the prior year statutory cost of living adjustment calculated pursuant to Education Code section 2557, rounded to the nearest thousand.

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section heading, section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15484. Deficit Spending.

(a) Unrestricted deficit spending (total unrestricted expenditures and other financing uses is greater than total unrestricted revenues and other financing sources) as a percentage of total unrestricted expenditures and other financing uses, has not exceeded one-third of the county office's available reserves as a percentage of total expenditures and other financing uses in any of the current fiscal year or two subsequent fiscal years.

(b) For purposes of this section, the following shall apply:

(1) Available reserves from the Juvenile Court/County Community Schools and Regional Occupational Centers/Programs may be included, up to the applicable percentage of program expenditures. Funds designated as reserves for this purpose continue to be restricted for use only in those programs. Also, available reserves are unrestricted reserves in the Designated for Economic Uncertainties and the Undesignated/Unappropriated accounts in the County School Service Fund and Special Reserve Fund for Other Than Capital Outlay Projects. Available reserves will be reduced by any negative ending balances in restricted resources in the County School Service Fund.

(2) A county office of education that serves as the AU of a SELPA may exclude from its expenditures the distribution of funds to its participating members.

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Repealer of article 2 heading, repealer and new section and amendment of NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15485. Average Daily Attendance.

(a) Projected countywide other purpose (ADA) has not changed for any of the current fiscal year or two subsequent fiscal years by more than two percent since budget adoption.

(b) Projected ADA for county operated programs has not changed for any of the current fiscal year or two subsequent fiscal years by more than two percent since budget adoption.

(c) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Sections 1205 and 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).

2. Amendment of NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15486. Revenue Limit.

(a) Projected revenue limit for any of the current fiscal year or two subsequent fiscal years, has not changed by more than two percent since budget adoption.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment filed 9–19–2001; operative 9–19–2001. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2001, No. 38).
4. Amendment of section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15487. Other Revenues. [Repealed]

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section heading and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer of section and amendment of NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15488. Salaries and Benefits.

(a) Projected total salaries and benefits for any of the current fiscal year or two subsequent fiscal years has not changed by more than five percent since budget adoption.

(b) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 1240(l), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8–19–91; operative 7–1–91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10–5–2000; operative 11–4–2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section and NOTE filed 5–13–2008; operative 6–12–2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15489. Other Revenues and Expenditures.

(a) Projected operating revenues (including federal, other state and other local) or expenditures (including books and supplies, and services and other operating) for any of the current fiscal year or two subsequent fiscal years, have not changed by more than five percent since budget adoption.

(b) Changes that exceed five percent in any major object category must be explained.

(c) For purposes of this section, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 1240(f), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of NOTE filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Amendment of section heading, section and NOTE filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15490. Facilities Maintenance.

(a) Identify changes that have occurred since budget adoption in the projected contributions for facilities maintenance funding as required pursuant to Education Code sections 17584 and 17070.75.

(b) For purposes of this section, the first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

NOTE: Authority cited: Sections 1240(f), 33127 and 33129, Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Amendment of section and NOTE filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).
3. Repealer and new section and amendment of NOTE filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20).

§ 15491. Fund Balance.

NOTE: Authority cited: Sections 33127, 33129 and 1240(j), Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

§ 15492. Cash Balance.

NOTE: Authority cited: Sections 33127, 33129 and 1240(j), Education Code. Reference: Section 33128, Education Code.

HISTORY

1. New section filed 8-19-91; operative 7-1-91. Submitted to OAL for printing only and exempt from Government Code section 11343 under Education Code section 3313 (Register 92, No. 10).
2. Repealer filed 10-5-2000; operative 11-4-2000. Submitted to OAL for printing only pursuant to Education Code section 3313 (Register 2000, No. 40).

§ 15493. Supplemental Information.

(a) County offices of education shall provide supplemental information in the following general areas:

(1) Provide the methodology and assumptions used to estimate ADA, enrollment, revenues, expenditures, reserves and fund balance, and multiyear commitments (including cost of living adjustments).

(2) Provide information on additional indicators as requested.

(b) County offices of education shall provide supplemental information in the following specific areas:

(1) Contingent Liabilities. Identify any known or contingent liabilities from financial or program audits, state compliance reviews, litigation, etc., that have occurred since budget adoption that may impact the budget.

(2) Use of One-Time Revenues for Ongoing Expenditures. Identify the ongoing county school service fund (CSSF) expenditures funded by one time revenues that have changed by more than five percent since budget adoption. (For this purpose, the first interim reports will be compared

to adopted budgets; the second interim reports will be compared to first interim projections).

(3) Contingent Revenues. Identify projected revenues for the current fiscal year and two subsequent fiscal years that are contingent on reauthorization by the local government, special legislation, or other definitive act (e.g., parcel taxes). If any of these revenues are dedicated for ongoing expenses, explain how the revenues will be replaced or the expenditures reduced.

(4) Contributions. Provide information regarding contributions as follows:

(A) Identify projected contributions from unrestricted resources in the CSSF to restricted resources in the CSSF for the current year and two subsequent fiscal years. Provide an explanation if contributions have changed by more than \$20,000 and more than five percent since budget adoption. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections.)

(B) Identify projected transfers to or from the CSSF to cover operating deficits in either the CSSF or any other fund for the current year and two subsequent fiscal years. Provide an explanation if transfers have changed by more than \$20,000 and more than five percent since budget adoption. (For this purpose, the first interim reports will be compared to adopted budgets; the second interim reports will be compared to first interim projections.)

(C) Identify capital project cost overruns that have occurred since budget adoption that may impact the CSSF budget. For this purpose, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.

(5) Long-Term Commitments. Provide information regarding long-term commitments as follows:

(A) Identify all existing and new multiyear commitments (include multiyear commitments, multiyear debt agreements, and new programs or contracts that result in long-term obligations) and their annual required payment, for the current fiscal year and two subsequent fiscal years.

(B) Explain how any increase in annual payments will be funded. Also explain how any decrease to funding sources used to pay long-term commitments will be replaced.

(6) Unfunded Liabilities. Identify any changes in estimates for unfunded liabilities since budget adoption, and indicate whether the changes are the result of a new actuarial valuation. (For this purpose, first interim reports will be compared to adopted budgets; second interim reports will be compared to first interim projections.)

(7) Temporary Interfund Borrowings. Identify projected temporary borrowings between funds (refer to Education Code section 42603).

(8) Status of Labor Agreements. Analyze the status of employee labor agreements, including the following:

(A) Identify new labor agreements that have been ratified since budget adoption, as well as new commitments provided as part of previously ratified multiyear agreements; and include all contracts, including all administrator contracts (and including all compensation). For new agreements, indicate the date of the required board meeting.

(B) Compare the increase in new commitments to the projected increase in ongoing revenues, and explain how these commitments will be funded in future fiscal years.

(C) If salary and benefit negotiations are not finalized, upon settlement with certificated or classified staff:

1. The county office of education must determine the cost of the settlement, including salaries, benefits, and any other agreements that change costs, and provide the CDE with an analysis of the cost of the settlement and its impact on the operating budget.

2. The CDE shall review the analysis relative to the criteria and standards, and may provide written comments to the president of the governing board and county superintendent of schools.

(9) Status of Other Funds. Analyze the status of other funds that may have negative fund balances at the end of the current fiscal year. If any

other fund has a projected negative fund balance, prepare an interim report and multiyear projection for that fund. Explain plans for how and when the negative fund balance will be addressed.

NOTE: Authority cited: Sections 1240(I), 33127 and 33129, Education Code. Reference: Sections 33128 and 42603, Education Code; and Sections 3540.2 and 3547.5, Government Code.

HISTORY

1. New section filed 5-13-2008; operative 6-12-2008. Submitted to OAL for printing only pursuant to Education Code section 33131 (Register 2008, No. 20). For prior history, see Register 2000, No. 40.

Chapter 15. Child Nutrition Programs

Subchapter 1. Food Sales, Food Service, and Nutrition Education

Article 1. Food Sales by Student Organizations

§ 15500. Food Sales in Elementary Schools.

(a) Except as provided in subsection (b) and Section 15501, no school providing kindergarten or any of grades one through eight shall permit the sale of food by pupil organizations if such school is participating in the National School Lunch, School Breakfast, or Food Distribution program.

(b) The governing board of a school district or a county superintendent of schools may permit a student organization to sell not more than one food item per sale when all of the following conditions are met:

- (1) The specific nutritious food item is approved by the governing board.

(2) The food sales do not begin until after the close of the regularly scheduled midday food service period.

(3) The sales during the regular school day are not of food items prepared on the premises.

(4) There are no more than four such sales per year per school.

(5) The food item sold is a dessert type food, such as pastry, ice cream or fruit.

(6) The food item sold is not one sold in the food service program at that school during that school day.

NOTE: Authority cited for Article 1: Sections 33031 and 48931, Education Code.

HISTORY

1. New Division 15 (Article 1, Sections 15500-15501) filed 1-16-76; effective thirtieth day thereafter (Register 76, No. 3).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15501. Sales in High Schools and Junior High Schools.

The governing board of any district or a county superintendent of schools maintaining a high school or a junior high school may permit an organization consisting solely of pupils of such school to sell food items during or after the regular school day if the following conditions are met:

(a) The specific nutritious food items are approved by the governing board.

(b) A student organization or organizations may be approved to sell food at any time during the school day, including the regularly scheduled food service period(s), as provided in (1) and/or (2):

(1) Only one such organization each school day selling no more than three types of food or beverage items such as confections, popcorn, nuts, fruit, or soft drinks; and/or

(2) Any one or more student organizations may conduct no more than four food sales of any food items during a school year in each school, but such sales shall be held on the same four days for any or all organizations.

(c) The sales during the regular school day are not of food prepared on the premises.

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(d) The food items sold during the regular school day are not those sold by the district in the food service program at that school during that school day.

Article 2. Mandatory Meals for Needy Pupils

§ 15510. Definitions.

The following definitions mean:

(a) A nutritionally adequate meal is a breakfast or lunch which meets the requirements of Section 49553 of the Education Code and the federal National School Lunch Act and the Child Nutrition Act.

(b) A needy pupil eligible to receive a free meal is one whose family income is not more than twenty-five percent above the income poverty guidelines prescribed by the United States Secretary of Agriculture for such family size.

(c) A needy pupil eligible to receive a reduced price meal is one whose family income is more than twenty-five percent and is equal to or less than ninety-five percent above the income poverty guidelines prescribed by the United States Secretary of Agriculture for such family size.

(d) For the purposes of this article, a school day is defined as enrollment for a minimum of 180 minutes daily in preschool and kindergarten; 180 minutes in continuation and opportunity schools or classes; 180 minutes in Regional Occupational Centers and Regional Occupation Programs, except that no mandate exists when a meal is offered at any regular day school of enrollment; 230 minutes in grades 1, 2, and 3; and 240 minutes in grades 4 through 8, 9 through 12, summer school and intersession programs in year-around schools. When free or reduced price meals are served to needy pupils enrolled for less than the school day prescribed by this section, such meals served are eligible for reimbursement in the same manner as are meals served to pupils enrolled for the school day prescribed by this section.

NOTE: Authority cited for Article 2: Sections 33031, 49492 and 49551, Education Code.

HISTORY

1. New Article 2 (§§ 15510, 15511) filed 2-25-76; effective thirtieth day thereafter (Register 76, No. 9).
2. Repealer and new subsection (d) filed 9-27-76; effective thirtieth day thereafter (Register 76, No. 40).
3. Amendment of subsection (a) and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15511. Plan of Operation.

NOTE: Authority cited: Sections 33031 and 49551, Education Code. Reference: Section 49555, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 11-9-79; effective thirtieth day thereafter (Register 79, No. 45).

Article 3. Nutrition Education

§ 15530. Scope of Article.

The provisions of this Article apply to nutrition education programs established pursuant to Section 49534 of the Education Code.

NOTE: Authority cited for Article 3: Sections 33031 and 49534, Education Code.

HISTORY

1. New Article 3 (Sections 15530-15535) filed 4-16-76; effective thirtieth day thereafter (Register 76, No. 16).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15531. Eligibility.

Each "child nutrition entity" defined in Section 49530.5 of the Education Code may submit a nutrition education application for funding to the State Department of Education.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15532. Procedure for Filing an Application.

The State Superintendent of Public Instruction shall determine the date for submission of each application. Each applicant shall:

(a) Prior to the submission of an application file a letter of intent at a time prescribed by the State Superintendent of Public Instruction.

(b) Submit an application on forms and at times prescribed by the State Superintendent of Public Instruction to the Office of Curriculum Services, State Department of Education, 721 Capitol Mall, Sacramento, California 95814.

§ 15533. Criteria for Approving Applications.

Each application shall be reviewed by a team appointed by the Superintendent of Public Instruction or his designee and shall be composed of three persons who are knowledgeable in either nutrition, education curriculum or evaluation and who reside outside of the county of the applicant child nutrition entity, which team shall review an application based on the following minimum criteria:

- (a) The nutritional needs of the children;
- (b) Trained nutritionists to provide direction and/or leadership;
- (c) A comprehensive nutrition curriculum to be correlated with other school programs including the school food service program;
- (d) Current, scientifically accurate instructional materials;
- (e) An economically sound project; and
- (f) A comprehensive evaluation plan.

§ 15534. Procedure for Funding.

(a) Each application recommended by the State Department of Education may be approved for funding by the State Board of Education on or before June 15.

(b) Payment of expenses incurred by a child nutrition entity shall only be based on actual cost in accordance with the approved project budget.

§ 15535. Procedure for Project Management.

Each child nutrition entity approved for funding shall establish a management procedure which shall include, but need not be limited to, the following:

(a) Any amendment or revision in the project program shall be approved by the State Department of Education. Requests shall be submitted to the Office of Curriculum Services, State Department of Education, 721 Capitol Mall, Sacramento, California 95814.

(b) Budget adjustments of 20 percent or more shall be approved in advance by the State Department of Education. Requests for budget revisions shall be submitted to the Office of Curriculum Services, State Department of Education, 721 Capitol Mall, Sacramento, California 95814.

(c) Separate accounting records shall be maintained for each project which shall be in accordance with generally accepted accounting standards and the project budget. Files of supporting documentation shall include, but not be limited to, purchase orders, work orders, contracts, itemized invoices, and correspondence shall be maintained separately or otherwise identified for audit purposes.

(d) Project records shall be kept for at least three years after the close of the fiscal year in which the funds were expended or until the grantee is notified that such records are not needed for administrative review, whichever occurs first. On request, records shall be made available for inspection and verification.

(e) Any application for copyright of material developed under a project shall first be approved by the State Department of Education.

(f) A child nutrition entity shall provide to the State Department of Education a quarterly report on the progress of the project on forms prescribed by the State Superintendent of Public Instruction. Such reports shall be due on the 15th day of October, January, April, and July.

(g) An annual report shall be submitted within 90 days after the close of the state fiscal year. A final report for projects which extend for more than one fiscal year shall be due within 90 days after the project is com-

pleted. Such reports shall contain as a minimum a narrative summary of the project, statistical analysis, evaluation, and financial summary.

(h) On-site visits may be conducted at the discretion of the State Department of Education which shall include, but not be limited to, fiscal audit, status of the project objectives, financial status, and summary of the evaluation data.

Article 4. School Lunch and Breakfast Programs

§ 15550. Scope.

This article is applicable to school lunch and breakfast programs operated by child nutrition entities under agreements made with the State Department of Education.

NOTE: Authority cited for Article 4: Sections 33031 and 49531, Education Code.

HISTORY

1. New Article 4 (§§ 15550–15565) filed 5–28–76; effective thirtieth day thereafter (Register 76, No. 22).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15551. Definitions.

The following definitions mean:

(a) Lunch Program—a program operated by a child nutrition entity to provide pupils with a nutritionally adequate lunch.

(b) Breakfast Program—a program operated by a child nutrition entity to provide pupils with any of the following: nutritionally adequate breakfast, basic breakfast, special breakfast.

(c) Nutritionally Adequate Lunch or Nutritionally Adequate Breakfast—one which meets or exceeds minimum food and nutrition requirements pursuant to Section 15558.

(d) Basic Breakfast—one which meets or exceeds minimum food and nutrition requirements pursuant to Section 15559.

(e) Special Breakfast—one which meets or exceeds minimum food and nutrition requirements pursuant to Section 15560 and which provides eligibility to the child nutrition entity for increased reimbursement when offered in especially needy schools.

(f) Especially Needy School—one which meets eligibility criteria established by the State Department of Education and which may receive increased reimbursement for special breakfasts.

(g) Child Nutrition Entity—any school district, county superintendent of schools, private school, parochial school, local agency, or child development program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code eligible to participate in child nutrition programs authorized by the National School Lunch Act and/or the Child Nutrition Act of 1966, as amended.

(h) Department—the State Department of Education.

(i) Agreement—the School Lunch Program Application–Agreement or the School Breakfast Program Application–Agreement between the child nutrition entity and the State Department of Education for operation of a school lunch and/or breakfast program.

(j) Child Nutrition Program—any program authorized by state law, the National School Lunch Act or the Child Nutrition Act of 1966.

HISTORY

1. Amendment of subsection (g) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15552. Authority.

Pursuant to Section 49531 of the Education Code, any child nutrition entity may apply to the Department for all available federal and state funds for the purpose of providing a nutritionally adequate breakfast or lunch or both to pupils each school day. A State Child Nutrition Fund is created and continuously appropriated to the Department pursuant to Section 41311 of the Education Code for the purpose of providing financial assistance, subject to the availability of funds, for the administration and operation of child nutrition programs at the state and local levels.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15553. Administration.

The Department shall be responsible for administration of child nutrition programs authorized by state law, the National School Lunch Act, and/or the Child Nutrition Act of 1966.

§ 15554. Agreements.

(a) To participate, the Department shall enter into a written agreement with the U.S. Department of Agriculture each fiscal/budget year to accept responsibility for the administration of child nutrition programs at the state level.

(b) To participate, each child nutrition entity shall enter into a written agreement with the Department each fiscal/budget year to accept responsibility for operation of a school lunch and/or breakfast program.

Agreement forms, provided by the Department, shall be submitted by the child nutrition entity to the Department at least 30 calendar days prior to the commencement date of school lunch and/or breakfast program operations. The child nutrition entity may renew this agreement on an annual basis by notice in writing submitted to the Department at least 30 days prior to expiration of the initial agreement. Subsequent renewal notices shall be submitted at least 30 days prior to expiration of the current agreement notice.

§ 15555. Eligibility.

Each child nutrition entity shall be eligible for state and federal meal reimbursement after completing and submitting a School Lunch Program Application–Agreement and/or a School Breakfast Program Application–Agreement to the Department and upon receiving approval of the application–agreement(s).

§ 15556. Payment of Claims.

(a) Each child nutrition entity shall submit a claim for reimbursement to the Department within 10 days after the close of each calendar month.

(b) If a child nutrition entity has not filed a claim within 30 days following the close of any calendar month, the department shall notify the entity of its failure to file such claim.

(c) Each child nutrition entity failing to submit a claim within 90 days after the close of any calendar month shall forfeit reimbursement for such month.

§ 15557. Responsibilities of Child Nutrition Entities.

Responsibilities of child nutrition entities shall include, but not be limited to:

(a) Development and implementation of goals and objectives to provide pupils with high quality food service programs.

(b) Implementation of policies, regulations and guidelines established by the Department for the management and operation of child nutrition programs.

(c) Planning, management and supervision of programs to insure that food service programs will become an integral part of the total educational program.

(d) Maintenance of records, preparation of reports, and submission of claims as required by state and federal regulations.

§ 15558. Requirements for Nutritionally Adequate Lunch or Breakfast.

A nutritionally adequate lunch or a nutritionally adequate breakfast shall contain, as a minimum, each of the following food components in the amount indicated as modified for age level pursuant to Section 15561:

(a) One-half pint of fresh, fluid milk as a beverage or on cereal or used in part for each purpose.

(b) Two ounces of lean meat, poultry, fish, or cheese; or one egg; or one-half cup of cooked dry beans or peas, or 4 tablespoons of peanut butter; or any equivalent quantity of any combination of the above listed foods or acceptable alternates. To be counted in meeting this requirement, such foods shall be served as a main dish or as part of a main dish plus one other menu item.

(c) Three-fourths cup of two or more vegetables or fruits, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement.

(d) One slice of whole grain or enriched bread; or an equivalent serving of cornbread, biscuits, rolls, tortillas, or acceptable alternates, made of whole grain or enriched flour or meal; or three-fourths cup or one-ounce serving of whole grain cereal or enriched or fortified cereal; or any equivalent quantity of any combination of these foods.

(e) One teaspoon of butter or fortified margarine.

§ 15559. Requirements for Basic Breakfast.

(a) A basic breakfast shall contain, as a minimum, each of the following food components in the amount indicated as modified for age level pursuant to Section 15561:

(1) One-half pint of fresh, fluid milk served as a beverage or on cereal or used in part for each purpose.

(2) One-half cup serving of fruit or full strength fruit or vegetable juice, or combination thereof.

(3) One slice of whole grain or enriched bread; or an acceptable alternate, made of whole grain or enriched meal or flour; or three-fourths cup or one-ounce serving of whole grain cereal or enriched or fortified cereal; or an equivalent quantity of any combination of these foods.

(b) Approved formulated grain fruit products, when served with 1/2 pint milk, constitutes a reimbursable breakfast when the use of regular food components is not possible.

§ 15560. Requirements for Special Breakfast.

A child nutrition entity providing a special breakfast shall be eligible for increased reimbursement when such breakfast is served in especially needy schools as determined by the Department. The breakfast shall contain, in addition to all components of the basic breakfast as specified in Section 15559: one ounce serving of meat, poultry, fish, cheese, or egg; or two tablespoons of peanut butter; or an equivalent combination of such foods. Each meal shall also contain at least one Vitamin C-rich food. This requirement may be modified for age level pursuant to Section 15561.

§ 15561. Modification of Nutrition Requirements.

The requirements of Sections 15558, 15559, and 15560 are established for children at age level 10–12, inclusive, and may be modified for other age levels in accordance with directives issued by the Department.

§ 15562. Meals Eligible for Reimbursement.

For purpose of meal reimbursement:

(a) Federal reimbursement may be claimed for:

(1) Lunches and/or breakfasts which meet requirements of Section 15558.

(2) Breakfasts which meet requirements of Section 15559 and Section 15560.

(b) State reimbursement may be claimed for:

(1) Lunches and/or breakfasts which meet requirements of Section 15558.

(2) Breakfasts served under the provisions of Education Code Section 41350(a) and which meet the requirements of Section 15559 or Section 15560.

(3) Breakfasts served under the provisions of Education Code Section 41350(b) are reimbursable when both a nutritionally adequate lunch and a basic breakfast are offered, or when a nutritionally adequate lunch and a special breakfast are offered. In either case they shall, together, provide at least one-half to two-thirds of the daily dietary allowance as determined by the Department.

(c) Federal and state reimbursements may be claimed for substitutions made, due to medical reasons, for any food components required by Sections 15558, 15559, and 15560, provided that such substitutions are authorized by a physician, in writing, and such authorizations are on file at the school.

HISTORY

1. Amendment of subsection (b) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15563. Meal Requirement for Needy Students.

For purposes of Sections 49550 and 49553 of the Education Code, a nutritionally adequate meal shall meet requirements for a nutritionally adequate lunch or breakfast pursuant to Section 15558.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 15564. Reimbursement Procedure.

(a) Eligible child nutrition entities may submit claims to the Department for reimbursement of each lunch and breakfast served to pupils provided such lunch and/or breakfast qualifies for reimbursement pursuant to Section 15562. Claims are to be submitted in accordance with the provisions of Section 15556.

(b) Claims shall be computed by utilizing the lesser of the following:

(1) Multiplying the total number of meals served to students in each reimbursement category by the current meal reimbursement rate, or

(2) Actual cash expenditures for food, labor, and other expenses of the food service program.

(c) Reimbursement claims shall be submitted on forms provided by the Department.

§ 15565. Notification of Changes in Reimbursement Rates.

Prior to July 15 the Department shall notify child nutrition entities regarding federal and state reimbursement rates for the current fiscal year. Prior to January 15 the Department shall notify child nutrition entities as to any changes in the federal reimbursement rates effective for the remainder of the current fiscal year.

Article 5. California Fresh Start Pilot Program

§ 15566. Purpose and Scope.

This article specifies the policies and requirements of the California Fresh Start (CFS) Pilot Program to promote the consumption of fresh fruits and vegetables by schoolage children and to provide supplemental State reimbursement for breakfast meals served that meet the requirements of the CFS Pilot Program.

NOTE: Authority cited: Sections 33031 and 49565.8, Education Code. Reference: Section 49565, Education Code.

HISTORY

1. New article 5 (sections 15566–15569) and section filed 3–16–2006 as an emergency; operative 3–16–2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–14–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealer of article 5 (sections 15566–15569) and repealer of section by operation of Government Code section 11346.1(g) (Register 2006, No. 29).
3. New article 5 (sections 15566–15569) and section filed 7–21–2006 as an emergency; operative 7–21–2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2006 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–21–2006 order transmitted to OAL 7–19–2006 and filed 8–30–2006 (Register 2006, No. 35).

§ 15567. Definitions.

As used in this article and the CFS Pilot Program, the term:

(a) “After school” means following the end of the school day. For kindergarten pupils, “after school” means following the end of a morning or afternoon session.

(b) “Deep-fried” means any fruit or vegetable cooked by total submersion in oil or fat.

(c) “Department” means the California Department of Education.

(d) “Funds” means program reimbursement provided by the Department pursuant to provisions of the CFS Pilot Program.

(e) “Fresh fruits or vegetables” means whole or portioned fruits or vegetables, including, but not limited to, those that are minimally processed.

(f) "Fruit" means ripened seed-bearing part of a plant developed from a flower, usually considered to be sweet and fleshy, as in apples, oranges, plums or strawberries.

(g) "Fruit bar" means a self-service counter featuring an array of fruits.

(h) "Give priority to" means that fresh fruits or vegetables shall be served unless they are not reasonably available on a commercial basis within program funds.

(i) "Grab and Go" means food that is packaged in a bag, box, or other container that can be picked up quickly and eaten "on the go."

(j) "Juice" means the extractable liquid that is contained in fruits or vegetables. Any liquid or frozen product labeled "juice," "full-strength juice," "100 percent juice," "single-strength juice," or "reconstituted juice" is included in this definition.

(k) "Meal" means breakfast, as defined in 7 CFR 220.2(b).

(l) "Minimally processed" means fruits and vegetables prepared and handled to maintain their fresh nature while providing convenience to the user by pre-cleaning, washing, trimming, coring, slicing, shredding, and other similar actions. Other terms used to refer to minimally processed products are "lightly processed," "partially processed," "fresh processed," and "prepared."

(m) "Nonprofit [school] food service" means all food service operations conducted by the School Food Authority principally for the benefit of school children, all of the revenue from which is used solely for the operation or improvement of such food service.

(n) "Nutrition education" means a broad range of activities that promote and enable healthy eating behaviors.

(o) "Nutritious fruits or vegetables" means fruits or vegetables that are fresh, or that are canned, dried, or frozen. Fruits or vegetables that are canned, dried or frozen shall contain no added sweeteners other than 100 percent fruit juice.

(p) "School Breakfast Program" (SBP) means the federal program operated pursuant to 7 CFR 220.

(q) "Serving" means an amount of fruit(s) and/or vegetable(s), equal to one half (1/2) cup or as referenced in Charts 2A and B of the USDA *Food Buying Guide for Child Nutrition Programs* (2001 edition), which is incorporated by reference.

(r) "Site" means a public elementary school, middle school, junior high school, or high school, including a charter school, in California, operating classes for pupils in a single building or complex of buildings, or any public classes of preprimary grade when they are conducted in the aforementioned school that participate in the School Breakfast Program.

(s) "Supplant" means "to substitute for" and/or "take the place of."

(t) "Supplement" means (1) an additional serving to the number of fruit or vegetable servings provided in the SBP prior to claiming CFS Pilot Program reimbursement, or (2) increasing, by no less than 90 percent of the CFS Pilot Program reimbursement, the total expenditure for nutritious fruits or vegetables served as part of a SBP.

(u) "Tasting and Sampling" means offering a taste or small portion of fresh fruits and/or vegetables to pupils not as part of the SBP or National School Lunch Program (NSLP).

(v) "Universal classroom breakfast" means providing all children breakfast in the classroom at no charge.

(w) "Vegetable" means a plant cultivated for an edible part, such as the root, stem, leaf, or flower, such as spinach, broccoli or carrot.

NOTE: Authority cited: Sections 33031 and 49565.8, Education Code. Reference: Sections 49534 and 49565, Education Code; and Title 7 CFR Parts 220.

HISTORY

1. New section filed 3-16-2006 as an emergency; operative 3-16-2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-14-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2006, No. 29).
3. New section filed 7-21-2006 as an emergency; operative 7-21-2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-20-2006 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 7-21-2006 order, including amendment of subsections (e), (j), (o) and (u), transmitted to OAL 7-19-2006 and filed 8-30-2006 (Register 2006, No. 35).

§ 15568. Requirements for Participation.

All school districts and charter schools that operate a SBP are eligible to participate in the CFS Pilot Program. To receive reimbursement, the school district or charter school shall:

(a)(1) Provide one or more supplemental servings of nutritious fruits or vegetables, or both, at breakfast, at no additional charge to a pupil and give priority to serving fresh fruits or vegetables;

(2) If already serving two nutritious fruits and/or vegetables at a site during breakfast, the district or charter school may provide one to two servings of nutritious fruits or vegetables for after school snacks. Such snacks do not need to be provided through the NSLP, but if they are, serving size requirements may differ from the one-half (1/2) cup required for the CFS Pilot Program.

(b) Spend at least 90 percent of the CFS Pilot Program funding received on the direct purchase of nutritious fruits or vegetables, or both, and give priority to purchasing fresh fruits or vegetables while adhering to state and federal procurement requirements.

(c) Not spend any of the funding for the purchase of juice or for the provision of fruits and vegetables that have been deep fried.

(d) Provide data as required by the independent evaluator pursuant to Education Code section 49565.7(b).

(e) Expend the CFS Pilot Program reimbursement funds only for the benefit of participating school sites.

(f) Claim reimbursement only for meals that provide at least one serving of a nutritious fruit and/or vegetable that is not juice or a fruit or vegetable that has been deep fried. Reimbursement can be claimed for meals served on all or some school days.

(g) Promote the consumption of California-grown fruits and vegetables through the tasting and sampling of nutritious fruits and vegetables as part of nutrition education at school sites participating in the CFS Pilot Program. Strategies for nutrition education that include tasting and sampling of nutritious fruits or vegetables, or both, may include, but are not limited to:

(1) Educational sampling and tasting supported with nutrition education.

(2) An offering of fruits or vegetables in the classroom that is reinforced with nutrition and agricultural bulletins.

(3) A monthly school campus farmers' market that highlights California fruits and vegetables for the student body to sample and taste, including:

(A) Demonstration markets that allow students or school-sponsored organizations to sell and offer samples of California's fruits and vegetables, obtained by the school, school district, or school organization directly from farmers to students.

(B) Certified farmers' markets operated by, or in coordination with, students or school-sponsored organizations, on school grounds, in compliance with applicable state statutes and regulations.

(4) A produce sampling program that supports a school garden's harvest through additional purchases of local, in-season fruits or vegetables to be used for a sampling and tasting program for the school campus featuring what is growing in the school garden.

NOTE: Authority cited: Sections 33031 and 49565.8, Education Code. Reference: Sections 49565, 49565.1, 49565.2, 49565.3, 49565.4 and 49565.6, Education Code.

HISTORY

1. New section filed 3-16-2006 as an emergency; operative 3-16-2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7-14-2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2006, No. 29).
3. New section filed 7-21-2006 as an emergency; operative 7-21-2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-20-2006 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 7–21–2006 order, including amendment of section, transmitted to OAL 7–19–2006 and filed 8–30–2006 (Register 2006, No. 35).

§ 15569. Strategies.

NOTE: Authority cited: Sections 33031 and 49565.8, Education Code. Reference: Section 49565.5, Education Code.

HISTORY

1. New section filed 3–16–2006 as an emergency; operative 3–16–2006 (Register 2006, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–14–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2006, No. 29).
3. New section filed 7–21–2006 as an emergency; operative 7–21–2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2006 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 7–21–2006 order, including repealer of section, transmitted to OAL 7–19–2006 and filed 8–30–2006 (Register 2006, No. 35).

Article 6. Food and Beverage Requirements Outside of the Federal School Meal Programs

§ 15575. Definitions for Foods.

As used in this article, the term:

(a) "Dairy" means a food made from milk with the exception of cheese packaged for individual sale.

(b) "Entree item" means a food generally regarded as the primary food in a meal and contains:

(1) Two or more of the following groups: meat/meat alternate, grain/bread, vegetable/fruit that are eaten together (e.g., turkey sandwich, pizza, hamburger on a bun, bean burrito, chef's salad, fruit and cheese platter, baked potato with chili, chicken vegetable stir-fry, veggie sandwich), or

(2) A meat/meat alternate alone (e.g., sausage patty, egg, chicken nuggets), excluding nuts, nut butters, seeds, cheese, and yogurt.

(c) "Exempt foods" means nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, and legumes that do not contain added sugars or fat, and

(1) Fruit that is dried and contains added sugar is exempt only if the added sugar is part of the dehydration process or added as dextrose to prevent caking and maintain flowability.

(2) Fruit that is canned or frozen is exempt only if it contains no added sugar other than 100 percent fruit juice.

(d) "Full meal" means any combination of food items that meet the United States Department of Agriculture (USDA) approved School Breakfast Program or National School Lunch Program meal pattern requirements found in 7 CFR 210.10 or 220.8.

(e) "Meat/meat alternates," "grain/breads," and "vegetables/fruits" mean those described in the *USDA's Food Buying Guide for Child Nutrition Programs* (2001 edition) Sections 1, 2, and 3, which is incorporated by reference.

(f) "Non-exempt foods" means foods other than nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, and legumes that do not contain added sugars or fat.

(g) "Whole grain" means, but is not limited to, whole wheat flour, graham flour, cracked wheat, crushed wheat, wheat berries, entire wheat flour, whole durum flour, whole oats, oat groats, oatmeal, rolled oats, whole corn, whole grain cornmeal, popcorn, brown rice, brown rice flour, wild rice, whole rye, whole rye flour, dehulled barley, dehulled barley flour, whole grain barley, whole grain barley flour, buckwheat groats, whole buckwheat flour, bulgur (cracked wheat), whole millet, whole millet flour, whole quinoa, whole quinoa flour, whole spelt, whole spelt flour, whole sorghum (milo), whole sorghum flour, whole triticale, whole triticale flour.

(h) "Whole grain food item" means:

(1) For purchased grain or bread products:

(A) A product that contains the following statement: "Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat, and cholesterol, may help reduce the risk of heart disease and certain cancers", or

(B) The first listed grain ingredient is a whole grain, or

(C) If the first listed ingredient is not specifically identified as a whole grain, documentation has been obtained within the previous 12 months from the manufacturer that lists whole grains, which, when combined, shall represent at least 51 percent of the weight of the total grains in the product.

(2) For grain or bread products prepared by schools:

(A) The weight of the whole grains shall represent at least 51 percent of the total grain weight of the product.

NOTE: Authority cited: Section 33031, Education Code; Reference: Sections 49430, 49431 and 49431.2, Education Code; and 7 CFR Parts 210.10 and 220.8.

HISTORY

1. New article 6 (sections 15575–15578) and section filed 8–4–2008; operative 9–3–2008 (Register 2008, No. 32).

§ 15576. Definitions for Beverages.

As used in this article the term:

(a) "Beverage" means any potable liquid.

(b) "Electrolyte replacement beverage" means a potable liquid that meets all of the following requirements:

(1) Water as the first ingredient.

(2) Contains no more than 2.1 grams of added sweetener per fluid ounce.

(3) Contains at least 10 milligrams but no more than 150 milligrams of sodium per 8 ounces.

(4) Contains at least 10 milligrams but no more than 90 milligrams of potassium per 8 ounces.

(5) Contains no added caffeine.

(c) "Milk" means cow's or goat's milk that:

(1) Contains Vitamin A, Vitamin D, and at least 25 percent of the FDA-established Daily Value (DV) for calcium per 8 ounces.

(2) Contains no added sweeteners exceeding 28 grams of total sugars per 8 ounces.

(3) Is two-percent fat milk, one-percent fat milk, or nonfat milk.

(d) "Non-dairy milk" alternative (e.g., rice milk, soy milk) means a beverage that:

(1) Contains Vitamin A, Vitamin D and at least 25 percent of the DV for calcium per 8 ounces.

(2) Contains no added sweeteners exceeding 28 grams of total sugars per 8 ounces, and

(3) Contains no more than 5 grams of fat per 8 ounces.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49431.5, Education Code; and Sections 38181, 38191 and 38211, Food and Agricultural Code.

HISTORY

1. New section filed 8–4–2008; operative 9–3–2008 (Register 2008, No. 32).

§ 15577. Food and Beverages Restrictions.

As used in this article the term:

(a) "Caloric restriction" means:

(1) In elementary schools, no more than 175 calories per item.

(2) In middle, junior, or high schools, no more than 250 calories per item for a snack item and no more than 400 calories per item for an entrée item.

(b) "Fat restriction" means no more than 35 percent of calories from fat.

(c) "Saturated fat restriction" means no more than 10 percent calories from saturated fat.

(d) "Sugar restriction" means no more than 35 percent sugar by weight.

(e) "Sugar" means all free mono- and disaccharides, such as glucose, fructose, lactose, and sucrose.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49430, 49431 and 49431.2, Education Code; and 21 CFR Part 101.9(c)(6)(ii).

HISTORY

1. New section filed 8-4-2008; operative 9-3-2008 (Register 2008, No. 32).

§ 15578. Sale of Food Items.

(a) Any food items appearing together on a menu and sold together as if they were a single food item, and typically combined for simultaneous consumption (e.g., pita with hummus, salad with dressing, chicken patty on a bun), shall be considered as one item for compliance (1) with the fat restriction, saturated fat restriction, sugar restriction and caloric restriction for a snack item or (2) with the fat restriction and caloric restriction for an entrée item.

(b) All non-exempt food items for sale must meet the fat restriction, saturated fat restriction, sugar restriction and caloric restriction for a snack item or the fat restriction and caloric restriction for an entrée item.

(c) A food item for sale containing non-exempted foods or ingredients combined with fruits, vegetables, nuts, nut butters, seeds, eggs, or legumes shall comply with the restrictions for non-exempted foods as described in section 15578(b).

(d) A food item for sale containing solely a mix of exempted foods is exempt from the fat restriction, saturated fat restriction, sugar restriction and caloric restriction.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49430, 49431 and 49431.2, Education Code.

HISTORY

1. New section filed 8-4-2008; operative 9-3-2008 (Register 2008, No. 32).

Chapter 16. Governing Boards of School Districts

Subchapter 1. Contracts with Federal Agencies

Article 1. Approval of Contracts

§ 16000. Approval of Contracts with Federal Agency.

The governing board of a school district shall not execute or complete any contract, agreement or arrangement with any agency of the Federal Government for any loan or advance to aid in financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to school plant construction until the Bureau of School Facilities Planning, State Department of Education shall have given said board its approval, in writing, of the school plant construction on account of which such loan or advance is desired as conforming to the over-all state policy for school plant construction.

Such approval shall include the following conditions:

(a) No payment due an architect or engineer under a contract between the governing board of a school district and the architect or engineer for the completion of preliminary plans which are subject to the approval of the Bureau of School Planning, State Department of Education, shall be made from funds lent or advanced by any agency of the Federal Government until such preliminary plans bear the written approval of said bureau.

(b) No final payment for completion of plans and specifications by the architect and engineer under the contract between the school district and the architect and engineer from funds lent or advanced by any agency of the Federal Government shall be made without the written approval of the Department of General Services required by Article 3 of Chapter 2 of Part 23 of the Education Code.

NOTE: Authority cited for Chapter 1: Sections 33113 and 33114, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 1 (§§ 16000 and 16001) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 16001. Contracts with Federal Agency by School District or County Superintendent of Schools.

NOTE: Authority cited: Section 33113, Education Code. Reference: Sections 33113 and 33114, Education Code.

HISTORY

1. Repealer filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).

Subchapter 2. Destruction of Records of School Districts

Article 1. General Provisions

§ 16020. Definition of Records.

(a) As used in this article, "records" means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained or which are prepared or retained as necessary or convenient to the discharge of official duty.

NOTE: Authority cited: Section 35253, Education Code. Reference: Sections 35250-35255, Education Code.

HISTORY

1. New Chapter 2 (§§ 16020-16030) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of subsection (b)(2) filed 2-18-71; effective thirtieth day thereafter (Register 71, No. 8).
3. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
4. Amendment filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).

§ 16021. Scope of Chapter.

HISTORY

1. Repealer filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).

§ 16022. Classification of Records.

(a) Prior Year Records. Before January 1, the district superintendent (or a person designated by the district not employing a superintendent) shall review documents and papers originating during the prior school year and classify them as Class 1—Permanent, Class 2—Optional, or Class 3—Disposable.

(b) Continuing Records. Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has ceased. A pupil's cumulative record, if not transferred, is a continuing record until the pupil ceases to be enrolled in the district.

(c) Microfilm Copy. Whenever an original record is photographed, microphotographed, or otherwise reproduced on film, the copy thus made is hereby classified as Class 1—Permanent. The original record, unless classified as Class 2—Optional, may be classified as Class 3—Disposable and may then be destroyed in accordance with this chapter if the following conditions have been met:

(1) The reproduction was accurate in detail and on film of a type approved for permanent, photographic records by the United States Bureau of Standards.

(2) The superintendent has attached to or incorporated in the microfilm copy his signed and dated certification of compliance with the provisions of Section 1531 of the Evidence Code.

(3) The microfilm copy was placed in a conveniently accessible file, and provision was made for preserving permanently, examining and using same.

(d) Any "historical inventory of equipment" shall be a continuing record as provided in subdivision (b) and shall not be subject to classification for retention or destruction until the inventory is superseded or until the equipment is removed from district ownership.

NOTE: Authority cited: Section 35253, Education Code. Reference: Sections 35168 and 35254, Education Code.

HISTORY

1. Amendment filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).

Article 2. Period of Retention

§ 16023. Class 1—Permanent Records.

The original of each of the records listed in this section, or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1—Permanent record and shall be retained indefinitely, unless microfilmed in accordance with Section 16022(c).

(a) Annual Reports.

(1) Official budget.

(2) Financial report of all funds, including cafeteria and student body funds.

(3) Audit of all funds.

(4) Average daily attendance, including Period 1 and Period 2 reports.

(5) Other major annual reports, including:

(A) Those containing information relating to property, activities, financial condition, or transactions.

(B) Those declared by board minutes to be permanent.

(b) Official Actions.

(1) Minutes of the Board or Committees Thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in the minutes but included therein by reference only.

(2) Elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the governing board for a board member, his recall, issuance of bonds incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose.

(3) Records transmitted by another agency that pertain to that agency's action with respect to district reorganization.

(c) Personnel Records.

(1) Employees.

(A) All detail records relating to employment, assignment, amounts and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation, salaries or wages paid, deductions or withholdings made and the person or agency to whom such amounts were paid. In lieu of the detail records, a complete proven summary payroll record for every employee of the school district containing the same data may be classified as Class 1—Permanent, and the detail records may then be classified as Class 3—Disposable.

(B) Information of a derogatory nature as defined in Education Code Section 44031 shall be Class 1—Permanent only after it becomes final. This information becomes final when:

1. The time for filing a grievance has lapsed, or

2. The document has been sustained by the grievance process.

(C) Information of a derogatory nature as defined in Education Code Section 44031 shall be Class 3—Disposable if prior to the effective date of this section the document was subject of grievance process and was not sustained.

(2) Pupils.

(A) The records of enrollment and scholarship for each pupil required by Section 432.

(B) All records pertaining to any accident or injury involving a minor for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto, except that these records cease to be Class 1—Permanent records one year after the claim has been settled or the statute of limitations has run.

(d) Property Records. All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may

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be classified as Class 1—Permanent, and the detail records may then be classified as Class 3—Disposable, if the property ledger includes:

- (1) All fixed assets.
- (2) An equipment inventory.
- (3) For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss, or otherwise.

NOTE: Authority cited: Section 35253, Education Code. Reference: Section 35253, Education Code.

HISTORY

1. Amendment of subsection (c)(2)(A) filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
2. Amendment of subsection (c)(1) filed 5–31–78; effective thirtieth day thereafter (Register 78, No. 22). Issuing agency: State Board of Education.
3. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

§ 16024. Class 2—Optional Records.

Any record worthy of temporary preservation but not classified as Class 1—Permanent may be classified as Class 2—Optional and shall then be retained until reclassified as Class 3—Disposable. If the superintendent and governing board agree that classification should not be made by the time specified in section 16022, all records of the prior year may be classified as Class 2—Optional pending further review and classification within one year.

NOTE: Authority cited: Section 35253, Education Code. Reference: Section 35253, Education Code.

HISTORY

1. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Editorial correction of printing error restoring dropped text (Register 91, No. 29).

§ 16025. Class 3—Disposable Records.

All records not classified as Class 1—Permanent or Class 2—Optional shall be classified as Class 3—Disposable, including but not limited to detail records relating to:

(a) Records Basic to Audit, including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report. Teachers' registers may be classified as Class 3—Disposable only if all information required in Section 432 is retained in other records or if the General Record pages are removed from the register and are classified as Class 1—Permanent.

(b) Periodic Reports, including daily, weekly, and monthly reports, bulletins and instructions.

HISTORY

1. Repealer of subsection (c) filed 2–18–71; effective thirtieth day thereafter (Register 71, No. 8).
2. Amendment filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).

§ 16026. Retention Period.

A Class 3—Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 41020 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later. A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3—Disposable.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 12–6–77; effective thirtieth day thereafter (Register 77, No. 50).

§ 16027. Destruction of Records.

Unless otherwise specified in this chapter, all Class 3—Disposable records shall be destroyed during the third school year after the school year

in which they originated (e.g., 1976–77 records may be destroyed after July 1, 1980).

NOTE: Authority cited: Section 35253, Education Code. Reference: Section 35253, Education Code.

HISTORY

1. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

§ 16028. Transfer of Records.

HISTORY

1. Amendment of subsections (a) and (b) filed 9–27–76; effective thirtieth day thereafter (Register 76, No. 40).
2. Repealer filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

Article 3. Steps in Destruction

NOTE: Authority cited: Section 35253, Education Code. Reference: Sections 35250–35255, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 16029–16030) filed 11–9–79; effective thirtieth day thereafter (Register 79, No. 45).

Subchapter 2.5. Historical Inventory of Equipment

§ 16035. Definition of Terms.

(a) As used in this article, "historical inventory of equipment," herein referred to as inventory, means a list, a card file, or electronic data-processed information containing the description, name, identification numbers and original cost of all items of district-owned equipment whose current market value exceeds \$200 per item (or exceeds any lesser amount approved by the local governing board), the date of acquisition, the location of use, and the date and mode of disposal.

(b) Any other system in use in a school district on June 30, 1973, may be approved by the State Superintendent of Public Instruction after due consideration of the requirements and suggestions in the State manuals, Administration of School Risk Management Program and California School Accounting, 1976.

(c) Any "historical inventory of equipment" shall be a continuing record as provided in Section 16022(d) herein and shall not be subject to classification for retention or destruction until the inventory is superseded or until the equipment is removed from district ownership.

NOTE: Authority cited for Chapter 2.5 (Sections 16035 and 16036): Section 35168, Education Code.

HISTORY

1. New Chapter 2.5 (Sections 16035 and 16036) filed 3–22–74; effective thirtieth day thereafter (Register 74, No. 12).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of Article 1 heading only filed 9–13–84; effective thirtieth day thereafter (Register 84, No. 37).

§ 16036. Listing.

NOTE: Authority cited: Sections 33031 and 35168, Education Code. Reference: Section 35168, Education Code.

HISTORY

1. Repealer of Article 2 heading and Section 16036 filed 9–13–84; effective thirtieth day thereafter (Register 84, No. 37). shall be kept as a Class 3 record and shall be destroyed only in accordance with Section 16026.

Subchapter 3. School Libraries

Article 1. School Library Services

§ 16040. Definitions.

(a) "School library services" include, but are not limited to, the provision, organization, and utilization of materials and related activities supportive of the educational requirements prescribed by law and by the school districts which may include the following:

(1) Library Instruction—Provide instruction to students that will enable them to become proficient users of library resources; and provide in-service training for teachers.

(2) Curriculum Development—Provide information to teachers and administrators concerning sources and availability of instructional materials that will aid in the development of school curriculum; team with classroom teachers to develop units of instruction and activities using library resources in the instructional programs.

(3) Materials Selection—Provide assistance to teachers and students in the evaluation, selection, production, and uses of instructional materials.

(4) Access to Materials and Information Resources—Provide a collection of materials and resources that support the curriculum and are appropriate for user needs. Plan a functional system, procedures, and services for maximum utilization of resources.

(5) Professional Development—Assist teachers, administrators, and other school staff members in becoming knowledgeable and current concerning appropriate uses of library media services, materials and equipment.

(b) A "School Library" is an area or group of areas where a program of information sources, associated equipment, and services from appropriate staff are accessible to pupils and school personnel and may be identified by each school district by any title which is descriptive of its function such as Learning Resource Center, Library Media Center, or Instructional Materials Center.

NOTE: Authority cited: Sections 18101 and 33031, Education Code. Reference: Section 18100, Education Code.

HISTORY

1. New Chapter 3 (§§ 16040–16043) filed 3–24–72; effective thirtieth day thereafter (Register 72, No. 13).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 9–23–85; effective thirtieth day thereafter (Register 85, No. 39).

§ 16041. Content of School Libraries.

Each school district may provide in its libraries books, reference books, periodicals, photographs, pictorial or graphic works, maps, charts, globes, sound recordings, films, filmstrips, kinescopes, video tapes, videodiscs, video cassette recorders, other printed or audio visual materials, and high technology systems such as computers approved for use in the schools by the governing board pursuant to Article 1 (commencing with Section 18100) of Chapter 2 of Part 11 of the Education Code.

NOTE: Authority cited: Sections 18101 and 33031, Education Code. Reference: Sections 18100, 18131 and 18170, Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 9–23–85; effective thirtieth day thereafter (Register 85, No. 38).

§ 16042. Services for Pupils and Teachers.

Opportunity is to be afforded pupils to borrow school library materials at no charge for use in the district's libraries, classrooms and out-of-school. A school district shall make no charge for the late return of library materials unless authorized to do so by the governing board of such district. Pupils and teachers are assisted in the selection and use of school library materials.

§ 16043. Duties of Library Personnel.

Persons employed by a school district as school librarians, assisted by other certificated personnel where deemed necessary, are responsible to perform the duties assigned by the school district governing board, including, but not limited to, supplementing classroom instruction, helping and instructing pupils in the choice and use of library materials, planning and coordinating school library programs with the instructional programs of a school district, selecting materials for school libraries, and conducting a planned course of instruction for those pupils who assist in the operation of school libraries, subject to such policies, rules and regu-

lations as may be established by the governing board for the operation and utilization of school libraries. Classified personnel assigned school library duties are to be under the supervision of certificated personnel; instructional aides assigned to school libraries are subject to the provisions of Education Code Sections 45340 through 45349; pupils are under the supervision of certificated personnel.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Chapter 17. County Superintendents

Subchapter 1. Duties of the County Superintendent

Article 1. Services to School Districts and the California Department of Education

§ 17101. Definition of "Under Review."

For the purposes of ensuring the use and sufficiency of state adopted textbooks and instructional materials and standards—aligned textbooks and instructional materials that are adopted by local governing boards, pursuant to Section 1240(i)(3) of the Education Code, schools "under review" are schools undergoing interventions pursuant to Sections 52055.5(b)(2), 52055.51, or 52055.650(e) of the Education Code.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 1240, 52055.5, 52055.51, 52055.640 and 52055.650, Education Code.

HISTORY

1. Amendment of article heading and new section filed 6–8–2005; operative 6–8–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23).

Article 2. Reports to the State Department of Education

NOTE: Authority cited: Section 1243, Education Code. Reference: None.

HISTORY

1. New Chapter 1 filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of Article 2 (Section 17220) filed 11–9–79; effective thirtieth day thereafter (Register 79, No. 45).

Subchapter 2. Fiscal Responsibilities of the County Superintendent

Article 1. Report of Miscellaneous Funds Pursuant to Education Code Section 17606

§ 17260. Time of Report.

The county superintendent of schools shall report on or before August 1st of each year the amount of miscellaneous funds which each district under his jurisdiction has received and which has been deposited to the credit of the general fund of the district during the preceding fiscal year. The report shall be made on forms prescribed by the Superintendent of Public Instruction.

NOTE: Authority cited for Article 1: Section 41604, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 2 (§§ 17260–17262, 17270–17278, 17280–17283, 17290–17292, 17300–17308, 17320–17322, 17340–17347, 17360–17363) filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17261. Funds to Be Reported.

Miscellaneous funds as defined in Education Code Section 41604 which shall be reported by a county superintendent include but are not limited to:

(a) Payments by the federal, state, county or city government or any agency of any such government that are payments in lieu of taxes. (State tax relief subventions for homeowners and business inventory tax relief are not "payments in lieu of taxes.")

(b) Payments by the federal, state, county or city government or by any private individual, partnership, company, or corporation of all or a portion of the royalties and bonuses received from the operation of any law or under the terms of any agreement.

(c) Payments by any governmental agency, private individual, partnership, company or corporation for rental of property owned by the school district and not on the tax rolls of the district in an amount that exceeds the actual expense of operating and maintaining the property.

(d) Payments received from or on account of school district property or any other property within the district or State not being assessed for tax purposes and not being used for school purposes.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17262. Funds Not to Be Included.

Miscellaneous funds as defined in Education Code Section 41604 do not include:

(a) Payments of federal forest reserve funds.

(b) Payments of Indian education reimbursement funds.

(c) Payments for tuition of nonresident pupils attending the schools of the district.

(d) Payments from the Veterans Administration for services rendered to veterans.

(e) Payments received as a part of any state apportionment made under the provisions of the Education Code or as a part of any federal-state apportionment for vocational type courses.

(f) Payments received as interest from cash on deposit and investments in United States bonds.

(g) Payments received for sale of property or from insurance indemnities.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Allowances for Emergency Purposes

§ 17270. Application.

The provisions of this article prescribed the conditions under which allowances will be made to meet conditions of an emergency nature requiring one or more of the following:

(a) The establishment and maintenance of emergency elementary schools.

(b) The providing of emergency teachers to regular elementary schools.

(c) The providing of emergency transportation to regular elementary schools.

(d) Emergency apportionments to school districts.

NOTE: Authority cited for Article 2: Section 14050(f), Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17271. "Emergency" Defined.

For the purpose of granting allowances to meet emergency conditions, an "emergency" is an extraordinary condition not of a continuing or per-

manent nature that cannot be met with the available funds of a school district, or from funds to be apportioned to the school district from the State School Fund during the then current fiscal year, or from other available funds.

§ 17272. Allowances for Emergency Elementary Schools.

The direct operation of education programs, which may be financed in part by allowances from the county school service fund, is limited to emergency elementary schools for normal pupils, as authorized by Section 1920 of the Education Code.

The proposed expenditures by county superintendents for such emergency elementary schools shall be submitted on the annual budget forms as prescribed by the Superintendent of Public Instruction. Such expenditures as are properly justified will be approved as a part of the county school service fund budget. Allowances of service funds to the counties, when expenditures exceed the regular state allowances and other available funds, will be made only on a reimbursement basis following actual expenditure. Claims for reimbursement shall be presented on forms prescribed by the Superintendent of Public Instruction.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17273. Other Emergency Financial Aid to School Districts.

Emergency financial aid may be granted to school districts, other than by the direct operation of education programs, as follows:

(a) Employment of emergency teachers for assignment to school districts for the instruction of normal pupils, as authorized by subdivision (b) of Section 1920 of the Education Code.

(b) Payment of transportation costs for normal pupils attending elementary schools, as authorized by subdivision (c) of Section 1920 of the Education Code.

(c) Apportionment to districts for current expense, as authorized by subdivision (a) of Section 1602 of the Education Code.

(d) Apportionment to districts for transportation of pupils to and from school to meet temporary emergency conditions, as authorized by subdivision (b) of Section 1602 of the Education Code.

(e) Tuition to high school districts for the education of pupils residing on military reservations, as authorized by Sections 37106-37111 of the Education Code.

(f) Apportionment to districts with resident cerebral palsied minors who attend special schools or classes in other districts if such districts of residence are financially unable to pay the tuition charges of the districts of attendance, as authorized by Section 56720 of the Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17274. Allowances for Emergency Financial Aid.

Proposed expenditures and apportionments for emergency financial aid described in Section 17273 shall be submitted on the annual budget forms as prescribed by the Superintendent of Public Instruction. A detailed statement of the emergency existing, the cause or reason for the emergency, and the need for an allowance shall be provided. Subsequent to the actual expenditure, a claim for reimbursement shall be presented on Form J-4, "Claim for Reimbursement for the County School Service Fund."

§ 17275. Use of Funds of Suspended School Districts.

No allowances shall be made from the county school service funds for the operation of emergency schools for normal pupils located in a suspended district until all existing funds of the suspended school district are exhausted.

§ 17276. Use of Forest Reserve Funds.

When proposing an allowance from the county school service funds for emergency financial aid to a school district eligible to receive county forest reserve school funds, certification shall be made by the county su-

perintendent of schools that an apportionment from the latter funds is not possible.

§ 17277. Approvals by County Board of Education.

The direct operation of education programs, as set forth in Section 17272, or the granting of financial aid to school districts, as set forth in Section 17273, must be approved by the county board of education, and a copy of that board's resolution shall accompany any claim for reimbursement for the operation of an education program or any proposal for allowances for other financial aids.

§ 17278. Final Filing Date for Claims.

No claim for reimbursement of expenditures for the purposes enumerated in this article shall be allowed by the Superintendent of Public Instruction unless the claim is received by him prior to the tenth day of June of the fiscal year in which the expenditures were made.

Article 3. Reimbursement of Travel Expense in Connection with Cooperative County Publication Projects

§ 17280. Application.

The provisions of this article prescribe the conditions under which the Superintendent of Public Instruction will make allowances to reimburse necessary and actual travel expenses of county superintendents of schools or their designated staff members in connection with cooperative county publication projects.

NOTE: Authority cited for Article 3: Sections 14050 and 14052, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17281. Definition.

A cooperative county publication project for the purpose of this article is a joint endeavor by two or more counties initiated by the Superintendent of Public Instruction or by county superintendents with the approval of the Superintendent of Public Instruction to develop written materials for publication that will be used in connection with the curricular and special services of the county superintendents.

§ 17282. Allowances for Reimbursement.

Anticipated travel expenses in connection with co-operative publication projects shall be budgeted as a part of the proposed expense of the budget class to which the publication relates.

If additional funds are required, they shall be derived from the other purpose balances of the participating counties. If no such funds exist in any of the participating counties, a claim against the contingency fund may be submitted along with a county school service fund budget revision and a memorandum of explanation. The claim shall be presented on forms prescribed by the Superintendent of Public Instruction.

§ 17283. Final Filing Date for Claims.

No claim for reimbursement of expenditures in connection with cooperative county publication projects shall be allowed by the Superintendent of Public Instruction unless such claim is received by him prior to the tenth day of June of the fiscal year ending June 30th in which the expenditures were made.

Article 4. Purchasing and Replacing of Capital Outlay Items

§ 17290. Application.

The provisions of this article govern the purchasing and replacing of capital outlay items by a county superintendent of schools from county school service funds. These provisions do not apply to the purchasing and

replacing of automotive equipment. The latter subjects are included in Article 6 of this subchapter.

NOTE: Authority cited for Article 4: Section 14050, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17291. Purchasing Procedure.

A county superintendent shall purchase a capital outlay item involving an expenditure of more than two thousand five hundred dollars (\$2,500) through the county purchasing agent, or he shall make the purchase directly from a vendor only after having secured in writing from responsible vendors at least three estimates of the cost of the item. The county superintendent of schools shall purchase the capital outlay item at the estimated cost from the vendor who submits the lowest estimate meeting the prescribed specifications, or shall reject all estimates. The provisions of this section shall not apply to the purchasing of films, filmstrips, and books.

HISTORY

1. Amendment filed 5-2-75; effective thirtieth day thereafter (Register 75, No. 18).

§ 17292. Limitations on Purchases.

The county superintendent shall observe the following limitations in purchasing or replacing capital outlay items:

(a) For the operation of a library and supplementary book service, the purchases of books and other instructional materials shall be limited to those books and materials adopted by the county board of education.

(b) For the operation of audio-visual services, the purchases of films and film strips shall be limited to films and film strips adopted by the county board of education.

(c) The purchase of projection equipment shall be limited to:

(1) Equipment for use of the staff of the county superintendent of schools for authorized curricular and special services.

(2) Equipment for use of such staff in programs of orienting school districts to audio-visual services.

(3) Equipment for loan to school districts in emergency cases of breakdown or failure of district-owned equipment.

(4) Equipment for use in educational services.

Article 5. Purchase, Replacement, Operation, and Maintenance of Automotive Equipment

§ 17300. Application.

The provisions of this article govern the purchase, replacement, operation, and maintenance of automotive equipment, title to which will be or is vested in the office of the county superintendent.

NOTE: Authority cited for Article 5: Section 14050, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17301. Purchasing Procedure.

The county superintendent shall make an initial or replacement purchase of a motor vehicle, trailer, or other item of automotive equipment involving an expenditure of more than three thousand five hundred dollars (\$3,500) through the county purchasing agent or he shall make the purchase directly from the vendor only after having secured in writing from responsible vendors at least three estimates of the cost thereof. The county superintendent of schools shall purchase the equipment at the estimated cost from the vendor who submits the lowest estimate meeting the prescribed specifications, or shall reject all estimates.

HISTORY

1. Amendment filed 5-2-75; effective thirtieth day thereafter (Register 75, No. 18).

§ 17302. Motor Vehicle and Trailer Purchases.

The county superintendent shall observe the following limitations in the purchase of motor vehicles and trailers:

(a) A motor vehicle purchased primarily for the transportation of staff personnel shall be an automobile of the light car class.

(b) A motor vehicle of the light car class shall be as described in the specifications provided by the Superintendent of Public Instruction.

(c) A motor vehicle purchased for the transportation of pupils shall meet all requirements of Chapter 4 (commencing with Section 14200) of Division 13 relative to pupil transportation.

(d) A motor vehicle to be used primarily for the transportation of equipment or supplies shall be purchased only after the Superintendent of Public Instruction has approved the specifications therefor and the justification for the use thereof.

(e) A motor vehicle or trailer designed and built for a special use or uses shall be purchased only after the Superintendent of Public Instruction has approved the specifications therefor and the justification for the use thereof.

§ 17303. Motor Vehicle Replacements.

For a vehicle to be replaced, one of the following conditions shall exist, or prior to the end of the budget year will exist, with respect to the vehicle being replaced:

(a) The age of the vehicle exceeds four years since the date of first registration.

(b) The total mileage on the vehicle exceeds fifty thousand (50,000) miles.

(c) The operating cost per mile is excessive due to unusual conditions, or will, in the future, be excessive due to unusual need for repair.

(d) The vehicle has been so damaged by casualty that the cost of repair would be excessive.

(e) There are special circumstances, other than those specified in (a) through (d), which justify replacement.

§ 17304. Repair and Replacement of Parts of Passenger Type Vehicles.

Where damages to passenger type vehicles due to casualty not covered by insurance are suffered to the extent that repair and replacement of parts on vehicles are not possible within the budgeted allowances for operation and maintenance and normal replacement, sufficient amounts may be allowed from available funds by transfer through use of the prescribed budget revision forms.

§ 17305. Public Liability and Property Damage Insurance.

The county superintendent shall insure the office of the county superintendent against liability (other than a liability which is insured against under the provisions of Divisions 4 and 5 of the Labor Code) for damages by reason of death, or by reason of injury to person or property, resulting from the use of any motor vehicle or trailer to which the office of the county superintendent has title. The insurance shall be procured from an admitted insurer and shall be in an amount deemed by the county superintendent of schools to be appropriate. When a county superintendent of schools holds title to five or more motor vehicles and trailers and the cost of the insurance is charged to county school service funds, the insurance shall be at rates applicable to motor vehicle fleets.

§ 17306. Comprehensive Insurance.

(a) The county superintendent shall insure the office of the county superintendent against loss or damage with respect to commercial type motor vehicles, such as trucks, buses, trailers, and special type mobile units, due to fire, theft, collision, upset, or other casualties ordinarily included in provisions for comprehensive coverage. Collision insurance may be of the type commonly referred to as "deductible."

(b) The county superintendent may insure his office against such losses with respect to passenger type motor vehicles.

(c) Insurance shall be procured from an admitted insurer and shall be in an amount deemed by the county superintendent of schools to be appropriate.

§ 17307. Maintenance Procedures.

When the cost of operation and maintenance of motor vehicles and trailers is paid from the county school service fund, the county superintendent shall comply with the following:

(a) Motor vehicle fuel shall be purchased from either of the following:

(1) County-owned garage facilities.

(2) A private vendor, after the county superintendent has secured in writing from responsible vendors at least three estimates of the cost. The county superintendent shall purchase the fuel at the estimated cost from the vendor who submitted the lowest estimate meeting the prescribed specifications, or shall reject all estimates.

(b) When repair of motor vehicle or trailer involves more than six hundred dollars (\$600) and is to be made in other than a county-owned garage, the county superintendent shall secure in writing from responsible persons or firms at least three estimates of the cost thereof and shall authorize the repair to be made at the estimated cost from the person or firm who submits the lowest estimate meeting the prescribed specifications, or he shall reject all estimates.

HISTORY

1. Amendment filed 5-2-75; effective thirtieth day thereafter (Register 75, No. 18).

§ 17308. Conditions Governing the Operation of Motor Vehicles and Trailers.

When the cost of maintenance or operation of motor vehicles and trailers is paid from the county school service fund, a county superintendent and his employees shall comply with the following conditions regarding the use and operation of such vehicles and trailers:

(a) All motor vehicles and trailers shall be adequately identified as property of the office by the affixing of suitable seals or by other methods showing suitable insignia or description.

(b) The county superintendent shall designate the normal storage location for all motor vehicles and trailers under his jurisdiction, and all such vehicles and trailers shall normally be garaged at such locations.

(c) Motor vehicles and trailers shall be used only in the conduct of official business; i.e., driven, or in the case of a trailer drawn by a motor vehicle driven, by the county superintendent or by an employee of his office acting in the performance of, or necessary to, or in the course of, official duties. Any other use, including use for driving to and from the county superintendent's or the employee's home, unless the county superintendent or the employee is departing or returning from an official trip or unless his home is the officially designated storage station, will be considered misappropriation for private use.

Article 6. Coordination of the Educational Program by the County Superintendent**§ 17320. Definition.**

For the purposes of Section 1703 of the Education Code, coordination of the educational program consists of the actions, efforts, and procedures of a county superintendent, directed to one or more districts, to:

(a) Enforce minimum educational standards

(b) Improve the educational program

(c) Promote order and reasonable uniformity in the educational program

(d) Effect working relationships between school districts and other agencies serving youth whose functions are related to the programs of the public schools

(e) Promote effective and efficient operation of the programs of instruction and special services in the areas of courses of study, guidance services, health services, special education, attendance activities, library services, audio-visual services, and advisory services in school business administration among the districts under his jurisdiction.

NOTE: Authority cited for Article 6: Section 1703, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17321. Level at Which Services to Be Provided.

Coordination provided shall be at the district level through working with district personnel who are responsible for the conduct in the district of the service so that the service will supplement the work or responsibilities assigned to members of the staff of the district, and not supplant district personnel or the work and assignments that normally are given to staff members of a district.

§ 17322. Responsibility of District.

Coordination services provided by the county superintendent of schools shall be with full recognition that the responsibility for operating the educational program and for effecting internal improvements in a district is the responsibility of the governing board of the school district, and such program and improvements shall be effected and financed by the school district.

Article 7. County School Service Fund Budget Procedures

§ 17340. Submitting the Budget.

The county superintendent shall, on or before June 30 of each year, submit to the Superintendent of Public Instruction a proposed budget as approved by the county board of education for the succeeding fiscal year, on forms prescribed by the Superintendent of Public Instruction, pursuant to the provisions of Section 14050 of the Education Code.

NOTE: Authority cited: Section 14050, Education Code. Reference: None.

HISTORY

1. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment filed 11–9–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 17341. Tentative Approval of Budget.

The budget shall be tentatively approved by the Superintendent of Public Instruction on or before July 1 to provide a basis for operation during the early months of the fiscal year and to determine the amount of the advance apportionment to be certified under the provisions of Section 41330 of the Education Code.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17342. Approval of Final Budget.

(a) Immediately after certification of average daily attendance pursuant to Education Code Section 41303, the Superintendent of Public Instruction shall adjust the tentatively approved budget, if necessary, in order to:

(1) Assure certification of an amount under the provisions of Section 41332 of the Education Code not in excess of the amount provided by law.

(2) Recognize the differences between the actual data for the preceding fiscal year as of June 30 and the estimated amounts used in giving tentative approval of the budget.

(b) The Superintendent of Public Instruction shall notify the county superintendent of adjustments made in the tentatively approved budget. The notice constitutes final approval of the budget.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17343. Budget Review.

In determining the necessary expenses, the Superintendent of Public Instruction shall consider but not be limited to the following:

- (a) The explanations and justifications supporting the budget request.
- (b) The level of expenditures for the two preceding fiscal years.
- (c) The available net beginning balances and estimated income other than state aid.

(d) The necessity of pilot projects of statewide interest or of nonrecurring items of expense.

(e) The authorization for the use of the county school service fund to pay for those services prescribed in Chapter 6, Part 2 of the Education Code (commencing at Section 1700) and as specifically authorized in Section 1500 of the Education Code.

(f) The adherence to applicable provisions of the Education Code and of this title.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17344. Appropriation for Contingencies.

In addition to expenditures, the county superintendent may request, and the Superintendent of Public Instruction may approve, an appropriation for contingencies, not to exceed 5 percent of the approved expenditures from state funds in the budget. Amounts from the appropriation for contingencies may be made available for expenditures during the fiscal year upon approval by the Superintendent of Public Instruction, under the provisions of Section 1604 of the Education Code, of a request for revision of the approved budget.

HISTORY

1. Amendment filed 6–7–74; effective thirtieth day thereafter (Register 74, No. 23).
2. Amendment of section and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17345. Cumulative Reserve.

In addition to normal expenditures, the county superintendent may request and the Superintendent of Public Instruction may approve a special reserve for the accumulation of funds over a period of years for the replacement of equipment and for capital outlay purposes. The request for a cumulative reserve shall be accompanied by a resolution of the county superintendent, with the approval of the county board of education, setting forth the purpose of each reserve, the amount to be accumulated each fiscal year, and the plan of expenditure. The cumulative reserve may be expended upon approval by the Superintendent of Public Instruction. The county superintendent shall, on or before July 10 of each fiscal year, report to the Superintendent of Public Instruction the expenditures made during the preceding fiscal year in compliance with the resolution and the approved budget revision. Any moneys not expended for the purposes specified in the resolution, in conformance with the plan prescribed and approved, shall be considered available for general support of the budget for the succeeding year.

§ 17346. Trust Accounts.

The moneys deposited to the credit of the county school service fund which remain in expendable trust accounts established for the purposes specified in an agreement with the donor or grantor, and not contemplated to be expended from the county school service fund during the budget year, shall not be considered by the Superintendent of Public Instruction as available for meeting the needs of the current year. On or before July 10, the county superintendent of schools shall file a report with the Superintendent of Public Instruction indicating the nature of such expendable trust accounts, the purposes for which the moneys are to be expended, the unexpended portion remaining from previous receipts, the amount expended for the preceding year, and the amount proposed for expenditure during the budget year.

Gifts, grants, and contributions received which are not restricted for specific purposes shall be considered available for meeting the needs of the current year.

§ 17347. Publications Included in Budget.

For the purposes of Education Code Section 14052, a publication is any written, taped, or graphically presented communication, except a communication for use only in the operation of the office of the county superintendent of schools or by cooperating agencies in the selection for use of audio-visual, library, and instructional materials, that meets all of the following criteria:

- (a) The communication is prepared by, or intended for distribution by, the county superintendent of schools in accordance with rules and regulations of the county board of education.
- (b) It is produced to disseminate information, data, or instructions relating to any service the county superintendent of schools is authorized to provide.
- (c) It is approved by the county board of education.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Article 8. County Tax for the Identification and Education of Physically Handicapped Minors by a County Superintendent

§ 17360. Requirement of a Tax Levy.

Whenever under Education Code Section 1850 a county superintendent is required, or under Education Code Section 1852 is permitted to maintain, or to contract with a school district or another county superintendent of schools to provide, a program for the identification and education of minors living in the county and in a school district who are considered to be physically handicapped under the provisions of Education Code Sections 56700 and 56701 (hereinafter called physically handicapped minors), the board of supervisors shall levy an identical rate of tax upon the taxable property in each school district in which such minors live and which are designated as the responsible districts under Education Code Section 56710.

NOTE: Authority cited for Article 8: Section 1856, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17361. Definitions.

For the purposes of computing the tax as provided in this article, the following definitions apply:

- (a) "Schools or classes" are those categories of instruction identified in the Education Code as: regular day classes, remedial classes in special physical education classes, other remedial classes, individual instruction, and special day classes.
- (b) The "average daily attendance" is the estimated average daily attendance of pupils in the appropriate schools during the fiscal year taxes are levied and consistent with that used for computing the foundation program for apportionments from the State School Fund.
- (c) The "total assessed valuation" of the districts is the sum of the assessed valuations of each district as modified in computing equalization aid allowances from the State School Fund.
- (d) The "cost of the education" is the current expense of education as defined in the California School Accounting Manual, less any expenditures for the rental of property.
- (e) "Capital outlay" includes expenditures for sites, improvement of sites, buildings, and equipment, as defined in the California School Accounting Manual.

§ 17362. Determination of Amount.

The total amount of money required to be raised by the tax pursuant to Section 17360 shall be computed as follows:

Current Expense of Education	\$	
Less, Rental of Property	\$	
Cost of Education (Section 17361(d))		\$
Capital Outlay (Section 17361(e))	\$	
Plus, Rental of Property	\$	
Total, Cost of Education and Capital Outlay		\$
Less, State Apportionment to County School Service Fund		\$
Net Prior Year Adjustment		\$
Total Tax Required		\$

§ 17363. Restricted Account.

The tax collected shall be deposited in the county school service fund and the revenues and expenditures shall be accounted separately within such fund. If the collection is in excess of the expenses of educating the physically handicapped pupils, or if there is a deficiency, the excess or deficiency shall be applied to reduce or increase the amount, as the case may be, which would otherwise be required in succeeding fiscal years.

Article 9. Petty Theft Fine Fund

§ 17370. Establishment and Allocations.

The county superintendent of schools may, with the approval of the county board of supervisors, establish in the County School Service Fund Budget, a Petty Theft Fine Fund pursuant to Penal Code Section 490.5(d). Allocation of such funds shall be made by the county superintendent to school districts submitting project applications for educational programs providing counseling or other educational services designed to discourage shoplifting, theft, and burglary. The county superintendent shall review the project applications to ensure that the proposed use of such funds shall be for newly developed programs which supplement rather than supplant existing programs. A portion of the Petty Theft Fine Fund may be retained by the county superintendent for necessary costs of administration. A district shall budget and account for the use of Petty Theft Fine Fund income separately within the general fund of the district.

NOTE: Authority and reference cited: Section 490.5(d), Penal Code.

HISTORY

1. New Article 9 (Section 17370) filed 12-6-77; effective thirtieth day thereafter (Register 77, No. 50).

Subchapter 3. Destruction of Records of a County Superintendent

Article 1. General Provisions

§ 17401. Definitions.

(a) Records. "Records," as used in this article, mean all records, maps, books, papers, and documents of a county superintendent that he is required by law to prepare or retain or which he prepares or retains as necessary or convenient to the discharge of his official duty, except that:

(1) The record, map, book, paper, or document shall have been prepared, preserved, or maintained by the county superintendent with respect to a matter of state concern, i.e., a matter dealing directly with the administration and government of the public schools, including, but not being limited to:

- (A) Records relating to the county school service fund.
- (B) Records relating to any activity financed by the county school service fund.
- (C) One exact copy of an original, made by carbon or other duplicating process other than a photostatic or microfilmed copy, when the original is required by law to be filed with another agency.

(D) All other records prepared, preserved, or maintained pursuant to a state statute, except as specified in subsection (2) of this section.

(2) The term does not include the records, maps, books, papers or documents, destruction of which is provided for in the Government Code, such as the following:

(A) Records relating to county matters, such as expenses and travel costs financed from the county general fund and matters imposed by county ordinance.

(B) Records of a county board of education and of a county committee on school district organization.

(b) Microfilm Copy. "Microfilm" copy means the same as in Section 16022(d), except that the copy was prepared under the direction of the county superintendent.

NOTE: Authority cited: Section 1246, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 3 (§§ 17401, 17403, 17404) filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

Article 2. Authorization and Procedure

§ 17403. Applicable Provisions of Sections 16020 through 16028.

Sections 16020(b), 16021 and 16022 through 16028 apply to the records of the county superintendent, except that for the purposes of this chapter where the expression "superintendent" or "school district" is used it means the county superintendent and where the term "governing board" is used it means the county board of education.

NOTE: Authority cited: Section 1246, Education Code. Reference: None.

HISTORY

1. Amendment filed 11–9–79; effective thirtieth day thereafter (Register 79, No. 45).

§ 17404. Classification of Records Filed by Districts.

The county superintendent shall classify as Class 3—Disposable or as Class 2—Optional any record other than an original record required to be filed with him by a school district. Copies of district invoices, warrants, ledger sheets, attendance reports, and correspondence are examples of records that may be so classified.

Subchapter 4. Travel Expenses for County Superintendents of Schools and Designated Staff Members

§ 17430. Application.

This chapter applies to the payment of travel expenses and related allowances incurred by the county superintendent of schools and staff members as authorized by Education Code Sections 1080(b), 1081, 1200, 1201 and 1942. Payments for such expenses are authorized within the following criteria:

(a) The travel expenses are incurred either by the county superintendent or members designated to incur travel expenses from funds under the control of the county superintendent.

(b) The travel expenses are incurred for curricular and special services or other activities legally authorized to be performed by the county superintendent of schools and staff members.

NOTE: Authority cited for Chapter 4: Sections 1942 and 14050, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 4 (§§ 17430–17436) filed 2–24–70; effective thirtieth day thereafter (Register 70, No. 9).
2. Repealer of Chapter 4 (Sections 17430–17436) and new Chapter 4 (Sections 17430–17436) filed 5–2–75; effective thirtieth day thereafter (Register 75, No. 18). For former history, see Register 73, No. 16.
3. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17431. Definitions.

(a) Headquarters—The headquarters of the county superintendent and staff members is the main office of the county superintendent. The county superintendent may establish an alternate location as headquar-

ters for designated staff members if these individuals are required to spend more than fifty (50) percent of their time at an alternate location.

Headquarters shall be established for each staff member whose duties require travel and each staff member's residence shall be noted.

(b) Curricular and Special Services—Curricular and special services are those services authorized or required by law to be provided to the school districts of the county that are financed from the county school service fund.

(c) Other Activities. Other activities are defined as those functions authorized by law or regulation to be performed by the county superintendent of schools.

§ 17432. Conditions of Payment.

The county superintendent may pay from funds under his or her control travel expenses incurred by the county superintendent and designated staff members if the following conditions are met:

- (a) A claim has been filed in accordance with this article.
- (b) The travel expenses were actual and necessary or meet the criteria established by the county board of education pursuant to these regulations.
- (c) The expenses are authorized under Sections 1080(b), 1081, 1200, 1201 and 1942 of the Education Code.

HISTORY

1. Amendment of subsection (c) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17433. Claims for Travel Expense.

A claim for travel expenses shall be submitted in accordance with rules and regulations adopted by the county board of education pursuant to Sections 1040 and 1042 of the Education Code. The following minimum requirements shall apply:

- (a) The purpose of the trip is shown.
- (b) Sufficient detail is provided to establish that the expenses incurred were actual and necessary to accomplish the purpose of the travel.
- (c) The claim is approved by an officer designated by the county superintendent.
- (d) Accompanying the claim are receipts or vouchers except for the following:
 - (1) Where published tariffs are available, and the travel is wholly within the State.
 - (2) Where subsistence allowance is paid for travel within the State.
 - (3) Taxi or hotel bus fares.
 - (4) Fares and tolls paid for public transit, ferries, and bridges.
 - (5) Long distance telephone or telegraph charges under \$2.50.
 - (6) All legal expenditures of \$1.00 or less.
 - (7) Parking fees less than \$3.00.
- (e) Any claim shall be disapproved which does not comply with the minimum provisions set forth in this section.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17434. Subsistence Allowances.

A per diem allowance may be claimed pursuant to this section. Travel shall have been more than 10 miles from the employee's headquarters.

(a) In-state Travel. Education Code Sections 1080(b), 1081 and 1942 provide that actual and necessary travel expenses may be paid to a county superintendent and designated staff members in accordance with regulations established by the county board of education subject to the following requirements:

- (1) The county board of education shall adopt regulations providing for no greater than the actual and necessary travel expenses of the county superintendent and designated staff members.
- (2) For those offices of county superintendent of schools where the staff is comprised of a combination of employees employed directly by the county superintendent and employees assigned to the county superintendent by the county board of supervisors, the county board of education may adopt the same travel and per diem rules for employees of the county

superintendent as the county board of supervisors has adopted for their employees.

(b) Out of State Travel. For out of state travel a county superintendent and designated staff members shall be authorized only those actual and necessary travel expenses which are provided for by regulations adopted by the county board of education.

(c) Lunch Allowance. On certain types of one-day trips as, for example, trips routinely made for an extended period of time to the same place or over the same route, the necessity for employees to incur additional expenses for meals should be questioned. The person approving the claim will determine the necessity for meal allowance in such cases pursuant to regulations adopted by the county board of education.

(d) Meal Allowance. When an employee is required to work by a supervisor more than two hours past the normal quitting time (which requires working more than 10 hours) and it is unreasonable to expect the employee to return to his or her residence for meals, reimbursement may be allowed for actual cost of a meal not to exceed \$5.00 for the evening meal and up to \$4.00 for all others. An additional meal allowance may be allowed for each additional six hours worked; a total of up to three overtime meal allowances in any 24-hour period may be allowed. No overtime meal will be allowed if an employee also claims per diem.

HISTORY

1. Amendment of subsection (a) filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

§ 17435. Transportation Allowances.

NOTE: Authority cited: Section 1942, Education Code. Reference: Section 1942, Education Code.

HISTORY

1. Repealer filed 6-16-82; effective thirtieth day thereafter (Register 82, No. 25).

§ 17436. Budgeting and Accounting for Travel Expense.

The amounts required for travel expenses for a county superintendent and staff members will be reviewed by the Superintendent of Public Instruction as part of the budget and financial reporting processes.

Chapter 18. California State Special Schools for the Deaf or Blind, or State Diagnostic Centers

Subchapter 1. Employees

Article 1. Pay Plan for the Exempt Teaching Staff of the State Special Schools and Diagnostic Centers

§ 17600. Application of Article.

This article applies to a person employed by a state special school or diagnostic center, and who is appointed to a classification designated exempt from civil service under California State Constitution, article VII, section 4(i). If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New Chapter I (§§ 17600-17608, 17625-17629, 17630-17634, 17640-17642, 17645-17649) filed 12-18-69; effective thirtieth day thereafter (Register 69, No. 51).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of chapter heading filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).
4. Amendment of chapter heading, article heading, section and NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17601. Definitions.

The following words have in this Chapter the meaning specified in this section:

(a) "Administrator" means the site superintendent of a special school or the director of a diagnostic center.

(b) "Annual school term salary" means the product of 12 times an employee's monthly salary specified for the position.

(c) "Employee" means a member of the exempt teaching staff of a special school.

(d) "Exempt classification" means a classification established to employ persons exempt from civil service under California Constitution Article VII, section 4(i).

(e) "Exempt staff" means all employees, unless otherwise excluded, appointed to an exempt classification.

(f) "Full-time service" means full-time service as one of the following:

(1) A school term employee, for 90% of the work days in one school term applicable to the employee.

(2) A fiscal year employee, for 90% of the work days in one fiscal year.

(g) "Managerial employee" means an employee appointed to an exempt classification that is designated managerial under Government Code section 3513(e).

(h) "Personal Leave Day" means a day during the school term which may be used without reduction of salary.

(i) "School holiday" means a day designated as a school holiday in the academic calendar of the special school.

(j) "School term" means the period beginning in any fiscal year with the first day upon which members of the exempt staff who are employed for the school term are required to be present for duty and ending in the following calendar year with the last day those members are required to be present for duty, and shall include at least 184 work days. The total number of workdays in the school term may vary by exempt classification and by special school.

(k) "Special school" means any one campus of the California Schools for the Deaf (CSD), the California School(s) for the Blind (CSB), or the State Diagnostic Centers.

(l) SSPI" means State Superintendent of Public Instruction.

(m) "Summer Session" means a period between the end of one school term and the beginning of the following school term during which exempt staff members may be present for duty.

(n) "Supervisory employee" means an employee appointed to an exempt classification that is designated supervisory under Government Code section 3513(g).

(o) "Vacation credit" means time for which the employee may be absent from duty on pay status.

(p) "Workday" means each day during the school term designated by the administrator as a workday for exempt employees, regardless of whether or not any such workday is a legal holiday. Said workdays shall be designated for any five days per week during the school term unless an academic holiday or holidays fall thereon.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New subsection (h) filed 1-26-79; effective thirtieth day thereafter (Register 79, No. 4).
2. Amendment of section and NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17602. Fixing of School Term, Summer Session, and School Holidays.

The administrator of a special school shall annually for pay plan purposes:

(a) Fix and publish the academic calendar of the special school including the beginning and ending dates of the school term as it applies to the exempt staff and, if a summer session is held, the summer session. Any combination of work days in any fiscal or calendar year is allowed for the school term or the summer session subject to the minimum number of work days set forth in section 17601(j).

(b) Publish in the academic calendar of the special school all days designated by the administrator as school holidays.

(c) Certify to the SSPI and to the State Controller:

(1) The beginning and ending dates of the school term and of the summer session.

(2) The number of exempt staff workdays in the school term and summer session, respectively.

(3) The number and dates of school holidays in the school term and summer session, respectively.

(4) The school term, workdays, and school holidays for each exempt school term classification.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17603. Amendment of Calendar.

The administrator, subject to the approval of the SSPI or designee, may, at any time during the year, certify to the SSPI and the State Controller an amendment to the calendar previously submitted.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17604. Categories of Employees for Pay Plan Purposes.

For pay plan purposes, the following categories of employees of the special schools are established:

(a) School term employee—an exempt employee who is required to render service for only the school term at a special school.

(b) Summer session employee—an exempt employee employed to render service in a summer session conducted by a special school.

(c) Fiscal year employee—an exempt employee employed to render service in a special school for the full fiscal year.

(d) Substitute teacher—an exempt employee who is employed for a limited period to perform the duties of a teacher who is absent from duty.

(e) Reader for the blind—an exempt employee whose duties are to read for blind persons.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

2. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17604.1. Establishment of Exempt Classifications.

The SSPI or designee shall establish, modify, or abolish exempt classifications. For each classification and assignment the SSPI may determine the minimum requirements, including experience, education, and license or credential, consistent with California licensing or credentialing requirements. One or more classifications may be established with the title of teacher, teacher specialist, supervising teacher, assistant site superintendent, site superintendent, diagnostic center director, substitute teacher, reader for the blind, or other title as deemed necessary.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17605. Effective Date of Initial Appointment.

The effective date of the appointment of an exempt employee of a special school shall be the date the employee reports for duty.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17605.1. Failure to Meet a Requirement for Continuing Employment.

An employee who fails to meet a requirement for continuing employment, including the possession of a license or credential, may be terminated, demoted, or transferred by serving upon the employee, either personally or by certified mail, a written notice thereof, at least five calendar days prior to the effective date of the action. The notice shall inform the employee of the proposed action and allow the employee the opportunity to discuss it with the SSPI or designee prior to the effective date. Within thirty days after receipt of notice of action under this section the employee may appeal the action to the State Personnel Board (SPB). When the employee regains the requirement for continuing employment, the employee may be reinstated to the position.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17606. Pay Plan for School Term Employee.

(a) Pay for Entire School Term. A school term employee who completes all the service required for an entire school term shall for such service be paid his or her annual school term salary in installments payable on state pay days covering the period of one year beginning with the effective date of his appointment to the position. The first installment shall be paid on an appropriate state pay day following the effective date of his appointment for the year and shall be the amount of the established monthly salary for the position. If such employee separates from the position following the completion of assigned duties in the position but prior to the end of the period of a year, the employee may on separation be paid as a final settlement the unpaid balance of the salary due, such balance to be computed by taking into account changes, if any, in the salary rate and time base. Such balance will equal the amount which the employee would have been paid if employment had continued until the end of the period of a year. For each month the employee works one-half or more of the workdays certified to the Controller for that month the employee shall be granted a qualifying pay period.

(b) Interim Adjustment in Pay Due to Noncompensable Absence. If, because of a late start or noncompensable absence of a school term employee, it is necessary to reduce the salary payment for any state pay period, the interim reduction for that period shall be computed as follows:

(1) First Step — Divide the annual salary by 210. The annual salary shall be the monthly salary rate in effect at the time of dock multiplied by twelve.

(2) Second Step — Divide the number of hours on dock by 8.

(3) Third Step — The amount of dock shall be the result of the first step multiplied by the result of the second step.

(c) If the amount of dock computed in any one pay period would result in zero or minus pay, the dock pay shall be calculated as follows:

(1) First Step — Divide the annual salary by 210. The annual salary shall be the monthly salary rate in effect at the time of dock multiplied by twelve.

(2) Second Step — Divide the number of hours on dock by 8.

(3) Third Step — The amount of dock shall be the result of the first step multiplied by the result of the second step.

(d) Settlement Payments. A school term employee who serves less than a school term, or whose pay has been adjusted due to a late start or a noncompensable absence, or who has had a change in time base, or who is transferred to service in a position other than as a school term employee shall, on the state pay day immediately following the final state pay period for which appointed and served or at the time separated or transferred from the school term position, receive a final settlement payment computed in accordance with the following formula:

(1) First step — The total salary earned equals the total days worked by the employee divided by the number of workdays in the school term for the employee's classification; the resulting figure is multiplied by the employee's annual school term salary.

(2) Second step—The amount of settlement pay equals the total salary earned minus the salary payment previously received by the employee for the current school term.

(c) Report to Controller. The final settlement payment shall be computed by the special school and a copy of such computation furnished to the State Controller.

NOTE: Authority cited: Sections 59003, 59113 and 59203, Education Code. Reference: Section 59003, 59113 and 59203, Education Code.

HISTORY

1. Amendment of subsection (b) filed 9-12-80; effective thirtieth day thereafter (Register 80, No. 37).
2. Amendment of section and NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17607. Pay Plan for Summer Session Employee.

For service during the summer session, an exempt employee, except a fiscal year employee, shall be paid at the rate established for the summer session position, but not to exceed a total of two months' salary, in addition to any salary due for service during the school term.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17608. Pay Plan for Other Exempt Employees.

(a) The workdays and pay plan for a fiscal year exempt employee shall be the same as for a state civil service employee. The employee shall be paid at the established salary rate for the position on each state pay day for the time served during the immediately preceding state pay period. Whenever a school work day falls on a state holiday the administrator may authorize appropriate compensation for working on the holiday.

(b) A substitute teacher or reader for the blind shall be paid at the established daily or hourly rate for the position on each state pay day for the time served during the immediately preceding state pay period.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17609. Personal Leave Days.

The SSPI or designee may authorize one or more personal leave days for each exempt employee, except a substitute teacher or reader for the blind, in conformance with criteria and procedures developed and administered by the California Department of Education.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 1-26-79; effective thirtieth day thereafter (Register 79, No. 4).
2. Amendment of section heading, section and NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

Article 2. Work Days and Vacation Credit

§ 17624. Application of Article.

This article applies to a person employed by a state special school or diagnostic center, and who is appointed to a classification designated exempt from civil service under California State Constitution, article VII, section 4(i). If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of article heading and new section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17625. Definitions.

Definitions contained in article 1 apply to this article.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Amendment of section and NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17626. Categories and Classifications of Employees.

Categories of employees contained in section 17604, and classifications of employees contained in section 17604.1, apply to this article.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17627. School Term Exempt Employees.

(a) Each school term employee is not required to work on days falling between the end of one school term and the beginning of the next school term, or on holidays during the school term as certified to the State Controller on the academic calendar for the employee's exempt classification. A school term employee does not earn additional compensation for time worked on an official state holiday.

(b) A supervising teacher in the CSD or in the CSB shall be employed for a school term of at least 194 days.

(c) An assistant superintendent in the CSD or in the CSB shall be employed for a school term of at least 204 days.

(d) A supervising teacher in the Diagnostic Center shall be employed for a school term of at least 219 days.

(e) A diagnostic center director shall be employed for a school term of at least 224 days.

(f) A school term employee does not earn vacation credit.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment filed 8-15-77; effective thirtieth day thereafter (Register 77, No. 34).
2. Amendment of section heading and section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17628. Fiscal Year Employees.

(a) Vacation Credit for Full-time Employment. On the day following completion of six qualifying pay periods of continuous service, an employee rendering full-time service as a fiscal year employee shall be allowed 10 1/2 workdays of vacation credit. Thereafter, for each additional qualifying pay period such employee shall be allowed on the first day of the following pay period 1 3/4 workdays of vacation credit.

(b) Vacation Credit for Less Than Full-time Employment. A fiscal year employee rendering service on less than a full-time basis, and who has completed at least six qualifying pay periods of continuous service in this type of position, shall for such service be allowed on the first day of the pay period following completion of 960 hours of paid employment in the position or positions 10 1/2 workdays of vacation credit. Thereafter, on the first day of the pay period following completion of additional service of 160 hours in the position or positions, the employee shall for that service be allowed 1 3/4 workdays of vacation credit.

(c) Accumulation. A fiscal year employee shall be permitted to accumulate and to be paid for vacation credit in accordance with the provisions of California Code of Regulations, title 2, sections 599.737 and 599.738.

(d) Right to Vacation. The administrator of the special school in which a fiscal year employee is employed shall determine when the employee shall take vacation. In the event the administrator does not provide vacation for an employee sufficient to reduce accumulated vacation credit to the amount permitted by sections 599.737 and 599.738 as of January 1, the provisions of California Code of Regulations, title 2, section 599.742 shall apply.

(e) A site superintendent in the CSD or in the CSB shall be a fiscal year employee. The SSPI or designee may establish other exempt classifications in which a person may be employed for the fiscal year.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17629. Summer Session Employees, Substitute Teachers, and Readers for the Blind.

(a) An employee rendering service as a summer session employee, a substitute teacher, or a reader for the blind does not earn vacation credit for such service.

(b) A summer session employee does not earn additional compensation for time worked on an official state holiday.

NOTE: Authority cited: Sections 33119, 59003, 59103 and 59203, Education Code. Reference: Sections 33119, 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

Article 3. Tenure Rights of Exempt Staff

§ 17630. Definitions. [Renumbered]

HISTORY

1. Amendment of article heading and renumbering of former section 17630 to new section 17630.2 filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17630.1. Application of Article.

This article applies to a person employed by a state special school or diagnostic center, and who is appointed to a classification designated exempt from civil service under California State Constitution, article VII, section 4(i), except a person employed temporarily. Substitute teacher and reader for the blind shall be temporary appointments for purposes of tenure. If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17630.2. Categories and Classifications of Employees, and Definitions.

(a) The categories of employees established by section 17604 and the exempt classifications established by section 17604.1 apply to this article, except as excluded in section 17630.1.

(b) Definitions contained in section 17601 apply to this article.

(c) A "pre-tenure employee" means an exempt employee at a particular special school who does not have tenure.

(d) "Tenure" means the right, under the provisions of this article, of an employee to continued full-time employment in an exempt classification that is not designated supervisory under Government Code section 3513(g) or managerial under Government Code section 3513(e), at a particular special school, subject to resignation, dismissal, suspension, or termination.

(e) A "tenure employee" means an exempt employee who has met the tenure requirements under the provisions of section 17631.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Renumbering of former section 17630 to new section 17630.2, including amendment of section heading and section and new NOTE, filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17631. Acquisition of Tenure.

Tenure is acquired by meeting all of the requirements specified in any one of the following subsections:

(a) Full-time service as a pre-tenure employee at one special school in one or more exempt classes, except service in classes excluded from tenure in sections 17630.1 and 17632(c), for three successive school terms or fiscal years, as applicable; and commencement of service upon reappointment for full-time service at that special school for the next school term or fiscal year, as applicable. The tenure is in that special school.

(b) Voluntary transfer, including transfer in lieu of layoff, promotion, or demotion, of a tenure employee at one special school to another special school; full-time service for one school term, or fiscal year, as applicable, immediately following the transfer, in the special school to which the employee so transferred; and commencement of service upon reappointment for full-time service at that special school for the next school term or fiscal year, as applicable. At the date of commencement of service for the second school term, or fiscal year, as applicable, at that special school, the transferee shall lose tenure at the special school from which transferred, and shall have tenure at the special school to which transferred. If the transferee is notified that commencement of service for the second school term, or fiscal year, as applicable, will not occur, the transferee shall be reinstated to the special school from which transferred and appointed to the classification at which tenure is earned at that special school. If such reinstatement creates a need for a layoff at the special school to which returned, the layoff provisions under sections 17638-17642, inclusive, shall apply.

(c) Transfer of a pre-tenure employee from a special school to a newly established special school for the same type of student; rendition of full-time service for three successive school terms or fiscal years, as applicable, at either or both of such special schools, and commencement of service upon appointment for full-time service at the newly established special school for the next school term or fiscal year, as applicable. At the date of such commencement of service, the transferee shall lose all rights toward tenure at the school from which transferred and shall have tenure only at the special school to which transferred.

(d) Full-time service in a special school by a pre-tenure employee for at least one school term or fiscal year, as applicable; transfer, including promotion or demotion, to an existing special school and rendition of full-time service therein for two successive school terms or fiscal years, as applicable; and commencement of service therein upon reappointment for full-time service at that special school for the next school term or fiscal year, as applicable. At the date of commencement of service under such reappointment, the transferee shall lose all rights toward tenure at the school from which transferred and shall have tenure only at the special school to which transferred.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17632. Tenure of a Supervisory or Managerial Employee.

(a) A supervisory employee at a school for the deaf or school for the blind may acquire tenure only as a teacher.

(b) A supervisory employee at a diagnostic center may acquire tenure only as a teacher specialist.

(c) A managerial employee does not acquire tenure for such service.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17633. Reappointment and Notice of Intention Not to Reappoint. [Repealed]

HISTORY

1. Repealer filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17634. Acceptance of Appointment or Reappointment. [Repealed]

HISTORY

1. Repealer filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

Article 4. Separation of Employees for Lack of Funds or Lack of Work

§ 17638. Application of Article.

This article applies to a person employed by a state special school or diagnostic center, and who is appointed to a classification designated exempt from civil service under California State Constitution, article VII, section 4(i). If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of article heading and new section filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17639. Definitions, Categories, and Classifications of Employees.

(a) Definitions contained in sections 17601 and 17630.2 apply to this article.

(b) Categories of employees established in section 17604 apply to this article.

(c) Exempt classifications established in section 17604.1 apply to this article.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17640. Area and Order of Layoff.

Whenever a determination has been made that there is a lack of funds or lack of work:

(a) The SSPI or designee may, without regard to area of layoff, separate from service any part-time exempt staff, substitute teacher, or summer session exempt staff. Such persons, if performing the same or comparable work as that performed by a pre-tenure or tenure employee, shall be separated before any pre-tenure or tenure employee whose work is the same or comparable and who desires to continue in employment is laid off under this article.

(b) Layoff of pre-tenure and tenure employees shall be by teaching service areas of layoff within a special school. Teaching service areas of layoff shall be developed according to the educational needs of students and the operational needs of the special school. Employees in a teaching service area of layoff shall be laid off in the following order:

(1) Pre-tenure employees shall be separated without regard to length of service.

(2) Tenure employees shall be separated in the inverse order of their length of employment as an employee appointed exempt under California State Constitution, article VII, section 4(i).

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17641. Notice of Layoff.

After a determination has been made of the areas to be reduced and the number of employees to be laid off, the SSPI or designee shall notify each

employee to be laid off that the employee is being laid off for lack of funds or lack of work and the effective date of the layoff. Such notice shall be in writing and mailed by certified mail, return receipt requested, to the employee's last known address as listed in the employee's official personnel record, or the notice may be delivered to the employee in person and verified by declaration of proof of service. The notice shall be so delivered or mailed at least thirty days prior to the effective date of the layoff. The decision of the SSPI or designee to issue a notice of layoff is the final decision with respect to the affected employee. The final decision shall include a determination that the required procedures have been complied with and that the layoff was made in good faith or was otherwise proper. The employee may not appeal the final decision of the SSPI or designee.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17642. Acceptance of Layoff.

An employee to be laid off may elect to accept such layoff prior to the date named in the notice of layoff. If an employee elects to accept early layoff, the employee shall give notice of such election as soon as possible.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section and new NOTE filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

Article 5. Termination of a Supervisory or Managerial Appointment

§ 17643. Application of Article.

This article applies to a person employed by a state special school or diagnostic center, and who is appointed to a classification designated exempt from civil service under California State Constitution, article VII, section 4(i), and who has an appointment as a supervisory employee or as a managerial employee.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Repealer and new article heading and new section filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17644. Definitions, Categories, and Classifications of Employees.

(a) Definitions contained in sections 17601 and 17630.2 apply to this article.

(b) Categories of employees established in section 17604 apply to this article.

(c) Exempt classifications established in section 17604.1 apply to this article.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17645. Cause. [Repealed]

HISTORY

1. Repealer filed 9–24–2007; operative 10–24–2007 (Register 2007, No. 39).

§ 17646. Notice of Termination.

The SSPI or designee, may give notice of termination of the appointment of a managerial employee or a supervisory employee by serving upon the employee, either personally or by certified mail, a written notice thereof, at least twenty calendar days prior to the effective date of the termination. The notice shall inform the employee of the proposed action and allow the employee the opportunity to discuss the termination with the SSPI or designee prior to the effective date.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Amendment of section heading and section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17647. Hearing. [Repealed]

HISTORY

1. Repealer filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17648. Appeal.

Within thirty days after receipt of notice of termination of a supervisory appointment or of a managerial appointment, the employee may appeal to the SPB upon the grounds that the termination was effected for reasons of age, sex, sexual preference, marital status, race, color, national origin, ancestry, disability as defined in Government Code section 19231, religion, or religious opinions and affiliations. At the hearing, the employee bears the burden of proving that the termination was for prohibited discriminatory reasons. After the hearing, the SPB may affirm the action of the appointing authority or restore the affected employee to the managerial or supervisory appointment.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. Repealer and new section and new NOTE filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17649. Termination. [Repealed]

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

§ 17650. Appointment after Termination.

(a) A supervisory employee terminated under section 17646, and who meets the tenure provisions under section 17631, shall be appointed to the tenure classification specified in section 17632(a) or (b), as applicable. Such appointment shall be subject to the provisions of section 17631.

(b) A managerial employee terminated under section 17646, and who met the tenure provisions under section 17631 prior to the managerial appointment, shall be appointed to the same tenure classification as that specified for a supervisory employee in sections 17632(a) or (b), as applicable, provided no permanent separation from service occurred between the date the tenure provisions were met and the date of the termination. Such appointment shall be subject to the provisions of section 17631.

NOTE: Authority cited: Sections 59003, 59103 and 59203, Education Code. Reference: Sections 59003, 59103 and 59203, Education Code.

HISTORY

1. New section filed 9-24-2007; operative 10-24-2007 (Register 2007, No. 39).

Subchapter 2. State Special Schools Admission Process

Article 1. California School for the Deaf

§ 17660. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) "Assessment of suitability for placement" is the period of evaluation and review for purposes of determining whether the California School for the Deaf (CSD) is the appropriate placement for a deaf applicant.

(b) "Deaf applicant" is a pupil who seeks admission into the CSD's educational program and whose primary disability is severe hearing loss. A deaf applicant may also demonstrate the ability to use spoken language and may require related speech services.

(c) "Enrollment" is the registration of the deaf applicant into CSD's educational program.

(d) "Severe hearing loss" is a hearing loss so severe that it adversely affects the pupil's educational performance and ability to access the general education curriculum in a regular education program so that direct instruction using sign language is required.

(e) "Temporary assignment" is an applicant's presence at the CSD for purposes of completing an assessment of suitability for placement at the school. A temporary assignment shall not exceed the time limits set forth in Education Code section 56344(a), and does not guarantee admission. For purposes of stay put, a temporary assignment shall not constitute the last agreed upon placement.

NOTE: Authority cited: Section 59020, Education Code. Reference: 5 CCR Section 3030(a); Section 56342(a), Education Code; and 34 CFR Section 300.555.

HISTORY

1. New subchapter 2 (articles 1-2, sections 17660-17667), article 1 (sections 17660-17663) and section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17661. Admission Process for the California School for the Deaf (CSD).

For purposes of determining whether a deaf applicant meets the criteria for enrollment, the following process shall be followed:

(a) The school district of residence (local education agency [LEA]) shall refer a deaf applicant to CSD by submitting an application packet to CSD.

(b) The completed application packet must be received by CSD within 60 calendar days of the referral. It is the responsibility of the LEA to complete the application packet and to submit it to CSD. Applications not completed within 60 days of the referral shall be returned to the deaf applicant's district of residence (LEA), and shall not be assessed for suitability of placement at CSD.

(c) The application packet shall contain the following information, assessments and reports:

(1) The last three years of Individualized Education Programs (IEP) or Individual Family Service Plans (IFSP) if completed;

(2) Audiograms, completed within one year of the date of the application of admission;

(3) The current assessments and/or reports prepared pursuant to Education Code section 56320, et seq. and as required to comply with Education Code section 56381; and

(4) Any additional assessments and/or reports dated within two years of the date of the application of admission which document:

(A) The impact of the deaf applicant's hearing loss;

(B) The deaf applicant's inability to auditorily access the general education curriculum; and

(C) Any other disabilities, conditions, or behaviors that may affect the deaf applicant's ability to access the general education curriculum.

(d) Once a completed application has been received, CSD shall initiate and complete an assessment of suitability for placement at CSD, in accordance with Education code section 56344. It is the sole responsibility of the deaf applicant's district of residence (LEA) to ensure compliance with Education Code section 56321 prior to CSD's commencement of the deaf applicant's assessment for suitability for placement. This assessment plan may include temporary assignment at CSD for purposes of determining eligibility for enrollment in the day or residential program and should include any necessary and appropriate amendments to the IEP to ensure appropriate services during this temporary assignment.

(e) Prior to the completion of the assessment of suitability for placement at CSD, the deaf applicant's IEP team, including the appropriate CSD personnel, shall meet to determine the appropriate placement. The IEP team may not make a determination of placement at CSD without the agreement of CSD personnel.

NOTE: Authority cited: Section 59020, Education Code. Reference: 5 CCR Section 3030(a); Section 56342(a), Education Code; and 34 CFR Section 300.555.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17662. Eligibility for Enrollment in CSD's Day Program.

The California Schools for the Deaf provide intensive, specialized services to students with or without additional disabilities whose primary education needs are due to their deafness. A deaf applicant who meets the following criteria may be eligible for enrollment or continued enrollment in the California School for the Deaf's (CSD) Instructional Program:

(a) The deaf applicant demonstrates the ability to learn and/or use American Sign Language as the primary mode of communication to access instruction, including as follows:

- (1) The deaf applicant attends to communication in the environment;
- (2) The deaf applicant visually attends to others in the environment;
- (3) The deaf applicant evidences an understanding or awareness of the intended communication;
- (4) The deaf applicant initiates or sustains interactions with others; and
- (5) The deaf applicant has the ability to respond to a majority of instructions in an academic, functional, social, and self-care situation.

(b) The deaf applicant demonstrates that his or her primary educational needs are related to a severe hearing loss with or without additional disabilities.

(c) The deaf applicant demonstrates that he or she can benefit educationally from an ASL environment.

(d) The deaf applicant demonstrates the ability to access the general education or alternative curriculum with reasonable accommodations without requiring a fundamental alteration of the educational program of CSD.

NOTE: Authority cited: Section 59020, Education Code. Reference: 5 CCR Section 3030(a); Section 56342(a), Education Code; and 34 CFR Section 300.555.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17663. Eligibility for Enrollment in CSD's Residential Program.

Deaf applicants eligible for the CSD's day program are not automatically enrolled into the residential program. Enrollment into CSD's residential program is a separate and distinct consideration even for a pupil currently enrolled in CSD's day program. A deaf applicant who meets the criteria established by section 17662 may also be admitted into CSD's residential program, if CSD determines:

(a) The deaf applicant resides beyond a 60-minute commute each way between home and CSD using transportation the LEA provides for day pupils.

(b) The deaf applicant has the ability to respond independently and appropriately to life-threatening situations.

(c) The responsible local school district and parent/guardian have approved the deaf applicant's placement in the residential program.

(d) The deaf applicant does not have a history of un-rehabilitated behavior that poses a threat to themselves and/or others, including but not limited to substance abuse, fire-starting, sexually predatory behavior, or assault.

NOTE: Authority cited: Section 59020, Education Code. Reference: Section 59020, Education Code.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

Article 2. California School for the Blind**§ 17664. Definitions.**

(a) An "applicant" includes "blind or visually impaired applicant," and "deaf-blind applicant" and is a pupil between the age of 3 through 21 whose primary disability is a severe sensory loss which limits their ability to access the general education curriculum and who seeks admission into California School for the Blind's (CSB) educational program.

(b) "Assessment of suitability for placement" is the period of evaluation and review for purposes of determining whether the CSB is the appropriate placement for an applicant.

(c) "Enrollment" is the registration of the applicant into CSB's educational program.

(d) "Severe sensory loss" is a loss of vision, or vision and hearing combined, that severely affects the pupil's ability to access the general education or alternative curriculum and causes difficulty to such an extent that it adversely affects his/her educational performance requiring the services of personnel trained to work with blind, visually impaired or deaf-blind children.

(e) "Temporary assignment" is an applicant's presence at the School for purposes of completing an assessment of suitability for placement at the school. Temporary assignment shall not exceed the time limits set forth in Education Code section 56344(a), and does not guarantee admission. For purposes of stay put, the temporary assignment shall not constitute the last agreed upon placement.

NOTE: Authority cited: Section 59020, Education Code. Reference: 5 CCR Section 3030(a); Section 56342(a), Education Code; and 34 CFR Section 300.555.

HISTORY

1. New article 2 (sections 17664-17667) and section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17665. Admission Process for the California School for the Blind (CSB).

For purposes of determining whether an applicant is qualified for enrollment in CSB, the following process shall be followed:

(a) The school district of residence (LEA) shall refer an applicant to CSB by submitting an application packet to CSB.

(b) The completed application packet must be received by CSB within 60 calendar days of the referral. It is the responsibility of the LEA to complete the application packet and submit it to CSB. Applications not completed within 60 days of the referral shall be returned to the applicant's district of residence (LEA), and the applicant shall not be assessed for suitability of placement at CSB.

(c) The Application shall contain the following information, assessments and reports:

(1) The last three years of IEP or IFSP if completed;

(2) An Ophthalmologic or optometric assessment completed within one year of the date of the application;

(3) The current assessments and/or reports prepared pursuant to Education Code sections 56320, et seq. and 56352, and as required to comply with Education Code section 56381; and

(4) Any additional assessments and/or reports dated within two years of the date of the application of admission which document:

(A) The impact of the applicant's vision or vision and hearing loss.

(B) The applicant's inability to visually or visually and auditorily access the general education curriculum; and

(C) Any other disabilities, conditions, or behaviors that may affect the applicant's ability to access the general education curriculum.

(d) Once a completed application has been received, CSB shall initiate and complete an assessment of suitability for placement at CSB, in accordance with Education Code section 56344. It is the sole responsibility of the applicant's district of residence (LEA) to ensure compliance with Education Code section 56321 prior to CSB's commencement of the applicant's assessment for suitability for placement. This assessment plan may include temporary assignment at CSB for purposes of determining eligibility for enrollment in the day or residential program and should include any necessary and appropriate amendments to the IEP to ensure appropriate services during this temporary assignment.

(e) Prior to the completion of the assessment of suitability for placement at CSB, the applicant's IEP team, including the appropriate CSB personnel, shall meet to determine the appropriate placement. The IEP team may not make a determination of placement at CSB without the agreement of CSB personnel.

NOTE: Authority cited: Section 59020, Education Code. Reference: 5 CCR Section 3030(a); Section 56342(a), Education Code; and 34 CFR Section 300.555.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17666. Eligibility for Enrollment in CSB's Day Program.

Applicants may be considered for admission if they can demonstrate they will benefit educationally from the CSB instructional program by showing:

(a) Applicant demonstrates that his or her primary educational needs are related to a severe sensory loss such that it affects the pupil's ability to access the general education or alternative curriculum.

(b) The ability to attend to non-visual stimuli.

(c) The ability to benefit from disability-specific instruction, as demonstrated by the following:

(1) potential to learn Braille, potential to use low vision aids;

(2) potential to benefit from expanded core curriculum instruction; and

(3) potential to benefit from adaptations to the environment.

(d) The ability to learn simple mobility patterns and routes around campus, as demonstrated by the following:

(1) The potential to use the white cane;

(2) The potential to orient self in space;

(3) The potential to learn own body and body parts; and

(4) The potential to learn concepts of directionality.

(e) Applicant demonstrates the ability to access the general education or alternative curriculum with reasonable accommodations without requiring a fundamental alteration of the educational program of CSB.

NOTE: Authority cited: Section 59020, Education Code. Reference: Sections 56350 and 56352, Education Code.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

§ 17667. Eligibility for Enrollment in CSB's Residential Program.

Applicants eligible for CSB's day program are not automatically enrolled into the residential program. Enrollment into CSB's residential program is a separate and distinct consideration even for a pupil currently enrolled in CSB's day program. An applicant who meets the criteria established by section 17666 may also be admitted into CSB's residential program, if CSB determines:

(a) The applicant resides beyond a 60-minute commute each way between home and CSB using transportation the LEA provides for day pupils.

(b) The applicant has the ability to respond independently and appropriately to life-threatening situations.

(c) The responsible local school district and parent/guardian have approved the applicant's placement in the residential program.

(d) The applicant does not have a history of un-rehabilitated behavior that poses a threat to themselves and/or others, including but not limited to substance abuse, fire-starting, sexually predatory behavior or assault.

NOTE: Authority cited: Section 59020, Education Code. Reference: Section 59020, Education Code.

HISTORY

1. New section filed 8-13-2007; operative 8-13-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 33).

[The next page is 184.49.]

Chapter 19. Child Care and Development Programs

Subchapter 1. Award of Funding for Child Care and Development Programs

Article 1. General Provisions

§ 17906. Fiscal Control.

NOTE: Authority cited: Section 8248, Education Code. Reference: Section 8243, Education Code.

HISTORY

1. Repealer of Article 1 (Sections 17900–17918) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39). For prior history, see Register 69, No. 51; Register 71, No. 20; Register 72, No. 30; and Register 74, No. 23.
2. New Article 1 (Section 17906) filed 8–18–78; effective thirtieth day thereafter (Register 78, No. 33).
3. Repealer filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 17930. Definitions.

HISTORY

1. Amendment and renumbering of former Article 2 (Sections 17930–17946) to Part VIII, Chapter 1, Article 5 (Sections 80105–80117) filed 12–16–77; effective thirtieth day thereafter (Register 77, No. 51). For prior history see Register 77, No. 39; Registers 75, No. 44, No. 32, No. 25; and Register 74, No. 47.

§ 18000. Definitions.

As used in this Chapter:

(a) “Additional funds” means award of new contracts or expanded contracts which increase the contractor’s level of administrative responsibility. Cost of living adjustments, rate increases, one-time-only supplemental funds and Alternative Payment program contingency funds are not considered to be “additional funds.”

(b) “Applicants headquartered in” means:

(1) Contractors or applicants who have provided child care and development services in the service delivery area, as defined in Section 18000(g) of this Division, for at least three (3) years immediately preceding the date of the Request for Applications; or

(2) Contractors or applicants who have their primary administrative offices for the child development program in the service delivery area as defined in Section 18000(g) of this Division. The primary administrative office is that office which houses the executive officer(s), the fiscal functions and other centralized support services.

(c) “Cost effective manner” for the purposes of Article 3 of this Chapter, means that services are provided at rates which are within the range of local market rates.

(d) “Extended day care” means before and after school care and care during school vacation days for children kindergarten age through the ninth (9th) grade.

(e) “New contract” means either:

(1) a contract award to applicants who do not currently contract with the State Department of Education for child care and development services; or

(2) a contract award to an existing contractor which is for a program type as specified in Education Code Section 8208(h) that is different than the child development contract(s) currently administered by the applicant.

(f) “Request for Applications” means an announcement issued by the Child Development Division for competitive award of a new contract for child care and development services or expansion of an existing level of services. The Request for Applications includes:

- (1) the application content requirements;
- (2) procedures for submission of an application for funding; and
- (3) the criteria to be used in evaluating the application.

(g) “Service delivery area” means the community, geographic area or political subdivision in which the child care and development services are to be provided as specified in the Request for Applications.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8269, 8406.6, 8447 and 8465, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88 operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18001. Eligibility for Funding.

(a) A contractor is not eligible for additional funds if the contractor has received final notification, as specified in Section 18301 of this Division, that its contract has been terminated.

(b) A contractor is not eligible for additional funds if the contractor has demonstrated fiscal and/or programmatic noncompliance and has received final notification, as specified in Section 18303 of this Division, that:

- (1) its contract will be placed on conditional status; or
- (2) it will not be offered continued funding.

(c) An applicant is not eligible for funding if it has had a prior contract with the State Department of Education for child care and development services within three (3) years immediately preceding the date of the Request for Applications and:

(1) the contract was terminated for fiscal and/or programmatic noncompliance; or

(2) the contract funding was not continued because of fiscal and/or programmatic noncompliance.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8406.6 and 8447, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 76, No. 34.

Article 2. Selection of Contractors

§ 18002. Application Review and Award of Contract.

(a) An applicant must submit a complete application in accordance with the instructions contained in the Request for Applications.

(b) If an application is submitted that is incomplete or not completed in accordance with the instructions, the Child Development Division shall reject it and no further review will be made.

(c) If any change is made in the contents of the Request for Applications, that change will be made in writing and mailed to all agencies and persons that received the Request for Application.

(d) All applicants that submit a complete application in accordance with the instructions shall be evaluated as follows:

(1) If the Request for Applications includes more than one service delivery area, applicants will be considered for the service area(s) specified in their applications;

(2) Applicants headquartered in the service delivery area(s) specified in the Request for Applications will be reviewed first;

(3) Applications will be evaluated and scored in accordance with the rating criteria specified in the Request for Applications.

(4) The Request for Applications shall specify the minimum number of points necessary for applicants to qualify for an interview.

(5) The interview will consist of an oral presentation by the applicant regarding the content area of the application and a question and answer portion to clarify or expand on the information presented.

(6) The interview will be evaluated and scored in accordance with the rating criteria specified in the Request for Applications;

(7) The applicants will be ranked on the basis of the combined scores for the written application and interview.

(8) If there are no applicants headquartered in the service delivery area meeting the minimum criteria specified in the Request for Applications, applications from applicants that are not headquartered in the specified service delivery area(s) will be evaluated in accordance with the procedures specified above.

(9) The highest scoring application shall receive a tentative offer of funding, subject to the provisions specified in Section 18003 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8445.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For history of former Article 2 (Sections 17930-17946), see Register 77, No. 51.

§ 18003. Contract Award Disputes.

(a) Applicants may review applications, interview scores and any reader comments after the date the proposed application results are posted at the office of the Child Development Division. An unsuccessful applicant may appeal the procedures used in the scoring of applications and interviews. If the unsuccessful applicant intends to appeal, the following appeal process shall apply:

(1) The unsuccessful applicant shall file a notice of appeal with the Appeals Coordinator identified in the Request for Applications within seven (7) calendar days after the date the proposed application results are posted at the office of the Child Development Division.

(2) The Director of the Child Development Division shall designate a Child Development Division staff person who shall coordinate the appeal process and who shall be referred to as the "Appeals Coordinator." The Request for Applications shall specify the name, address and telephone number of the Appeals Coordinator.

(3) The Appeals Coordinator shall appoint no less than two (2) State Department of Education staff who will be members of an Appeals Panel that shall hear all appeals. The members of the Appeals Panel shall be independent from the application review process.

(4) A notice of appeal shall be deemed to be filed if the Appeals Coordinator receives a written notice of appeal or a telephone communication within the time period required for filing a notice of appeal.

(5) The notice to appeal shall contain the following information: the appellant's name, mailing address and telephone number; the name(s) of the person(s) who will represent the appellant at the appeal hearing; and whether the representative(s) will appear in person at the appeal hearing or will appear through a telephone conference call with the Appeals Panel.

(6) The Appeals Coordinator shall schedule an appeal hearing to be held in Sacramento or with a telephone conference call by the Appeals Panel within seven (7) calendar days of the receipt of the notice of appeal.

(7) The unsuccessful applicant shall not submit additional information to be evaluated and scored during the appeal process.

(8) The Appeals Panel shall adjust scores assigned by the reviewers and/or interviewers when there is evidence of an inconsistent application of scoring criteria by a reader(s) or interviewer(s).

(9) The Appeals Panel shall notify the appellant in writing of the results of the appeal within seven (7) calendar days of the appeal hearing.

(b) If, after the Appeals Panel's decision, there is a change in the rank order of applications, the applicant who received a tentative offer for funding pursuant to Section 18002 of this Division shall receive a notice of the change, and may file an appeal with the Appeals Coordinator within seven (7) calendar days of the date the notice of the change was sent. If a notice to appeal is filed pursuant to this Subsection, the procedures specified above in Subsections (a)(2) through (a)(9), inclusive, shall apply.

(c) A contract award decision is final when an appeal is filed pursuant to subsection (b) and the appellant is notified of the Appeal Panel's decision.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18005. Contractor Eligibility for State Child Care Facilities Fund.

In order for a contractor to be eligible to apply for a lease of a relocatable facility for extended day care, the contractor shall maintain a clear or provisional contract status.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8477, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18006. Priorities for State Child Care Facilities Fund (School Age Community Child Care Programs).

Priorities for the acquisition and leasing of facilities from the State Child Care Facilities Fund are:

(a) First priority shall be given to extended day care programs that:

(1) Operate within the boundaries of a school district which has un-housed pupils.

(2) Have developed a plan to provide extended day care services in a cost effective manner.

(b) Second priority shall be given to extended day care programs that:

(1) Operate within the boundaries of a school district with housed pupils.

(2) Have developed a plan to provide extended day care services in a cost effective manner.

NOTE: Authority cited: Section 8461, Education Code. Reference: Section 8477, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 3. State Child Care Facilities Fund

§ 18007. Priorities for State Child Care Facilities Fund (GAIN).

For programs serving participants in the Greater Avenues for Independence Act of 1985 (GAIN), priorities for the acquisition and leasing of facilities from the Child Care Facilities Fund are:

(a) First priority shall be given to extended day care programs that:

(1) Operate within the boundaries of school districts that have un-housed pupils;

(2) Have developed a plan to provide extended day care services in a cost effective manner; and

(3) Are providing or seeking to provide extended day care services in, or in close proximity to, public housing projects, or in areas of high density of recipients of benefits under the Aid to Families with Dependent Children programs in order to serve participants under the Greater Avenues for Independence Act of 1985 (GAIN).

(b) Second priority shall be given to extended day care programs that:

(1) Operate within the boundaries of a school district that has housed pupils;

(2) Have developed a plan to provide extended day care services in a cost effective manner; and

(3) Are providing or seeking to provide extended day care services in, or in close proximity to public housing projects, or in areas of high density of recipients of benefits under the Aid to Families with Dependent Children programs in order to serve participants under the Greater Avenues for Independence Act of 1985 (GAIN).

(c) Third priority shall be given to extended day care programs that:

(1) Operate within the boundaries of a school district that has un-housed pupils;

(2) Have developed a plan to provide extended day care services in a cost effective manner; and

(3) Are providing or seeking to provide extended day care services that are not in or in close proximity to public housing projects, or in areas of high density of recipients of benefits under the Aid to Families with Dependent Children programs in order to serve participants under the Greater Avenues for Independence Act of 1985 (GAIN).

(d) Fourth priority shall be given to extended day care programs that:

(1) Operate within the boundaries of a school district that has housed pupils;

(2) Have developed a plan to provide extended day care services in a cost effective manner; and

(3) Are providing or seeking to provide extended day care services that are not in or in close proximity to public housing projects, or in areas of high density of recipients of benefits under the Aid to Families with Dependent Children programs in order to serve participants under the Greater Avenues for Independence Act of 1985 (GAIN).

NOTE: Authority cited: Section 8461, Education Code. Reference: Section 8478.5, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18008. Funding Award Procedures for State Child Care Facility Funds.

(a) No additional eligibility criteria beyond those specified in Section 18005 of this Division and Education Code Sections 8477 and 8478.5 shall be imposed.

(b) Based on the priorities and procedures specified in Sections 18006 and 18007 above, the Child Development Division shall make recommendations for funding to the State Allocation Board.

(c) Funds shall be awarded by the State Allocation Board based on availability and rules and procedures established by the State Allocation Board pursuant to Education Code Sections 8477(e) and 8478.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8477, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 4. Contingency Funds for Alternative Payment Programs

§ 18009. Application for Contingency Funds.

(a) Alternative Payment programs as defined in Section 18018(e) of this Division may apply for funding for additional services which were provided pursuant to Section 8222.1 of the Education Code by submitting a request to the State Department of Education, Office of External Audits.

(b) The request shall be in the form of a letter which must be submitted by October 31 of the fiscal year following the fiscal year in which the additional costs were incurred and services were provided.

(c) The Office of External Audits shall order payments from the contingency fund after verifying:

(1) the costs incurred and the level of additional services provided;

(2) that reimbursement from the contingency fund does not exceed five thousand dollars (\$5,000) or two percent (2%) of the contractor's maximum reimbursable amount, whichever is greater; and

(3) that the contractor has not been reimbursed for additional services from the contingency fund for the prior two (2) consecutive years.

NOTE: Authority cited: Section 8269, Education Code. Reference: Sections 8222.1 and 8278, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 5. Continued Funding

§ 18010. Continued Funding.

(a) Contractors have no vested right to a subsequent contract.

(b) Contractors that are not on conditional contract status but which have evidenced fiscal or programmatic noncompliance with the provisions of this Division or Education Code Sections 8200 et seq., shall receive an administrative review in accordance with Section 18303 of this Division to determine whether they will receive an offer for continued funding.

(c) Contractors currently on conditional status that do not meet the requirements specified in the Conditional Status Addendum, as specified in Section 18305 of this Division, may not be offered a subsequent contract and shall be so notified by the Child Development Division at least ninety (90) calendar days prior to the end of the current contract period.

(d) Contractors that intend to accept the offer to continue services in the subsequent contract period shall respond to a continued funding application request from the Child Development Division in accordance with the instructions and timelines specified in the request.

(e) Failure to respond within the timelines specified in the continued funding application request shall constitute notification to the Child Development Division of the contractor's intent to discontinue services at the end of the current contract period unless the contractor has received a written extension of the original timeline from the Child Development Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8406.6, Education Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18011. Location of the Program.

HISTORY

1. Repealer filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

Subchapter 2. General Requirements

Article 1. General Provisions

§ 18012. Scope of Chapter.

Unless otherwise provided in this Division, the regulations in this Chapter apply to all contracting agencies authorized to establish, maintain, or operate services pursuant to the Child Care and Development Services Act, Chapter 2, Part 6 of Title 1 of the California Education Code (commencing with Section 8200).

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8261 and 8269, Education Code.

HISTORY

1. Renumbering of former Chapter 2 (Sections 18140-18174) to Chapter 5 (Sections 18140-18174) filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18013. Definitions.

As used in this Division:

(a) "Actual and allowable net costs" means the costs which may be reimbursed under a particular child development contract after disallowed costs and restricted income have been subtracted from total expenditures.

(b) "Adjusted child days/hours of enrollment" means child days or hours of enrollment after special needs adjustment factors specified in Education Code Section 8265.5 have been applied.

(c) "Administrative costs" means costs incurred for administrative activities where neither the family, the child nor the service providers for Alternative Payment programs and family child care homes directly benefit from the activity.

(d) "Adult" for the purposes of this Division means a person who is at least eighteen (18) years of age.

(e) "Alternative Payment programs" means contracts designated as Alternative Payment, County Welfare Department, or Child Protective Services. Contracts designated as School Age Community Child Care and Exceptional Needs which operate in a vendor payment mode are in-

cluded in the definition of Alternative Payment programs. Contractors operating Alternative Payment programs are not precluded from contracting for other program types as specified in Education Code Section 8208(h).

(f) "Authorized representative" means a person who has been delegated the responsibility to sign a child in and out of a child care program in the absence of the parent.

(g) "Benefit to the state" means that the activity will improve knowledge or expertise in areas directly related to subsidized child care and development services.

(h) "Ceases operation" means the contractor does not provide subsidized services in accordance with the contractor's program operating calendar submitted to and approved by the Child Development Division for the applicable contract period.

(i) "Commingle child care services" means the provision of services to both subsidized and nonsubsidized children in the same classroom at the same time.

(j) "Contract period" means the time span the contract is in effect as specified in the child development contract.

(k) "Depreciation" means a cost in the current fiscal year that is based on acquisition costs, less any estimated residual value, computed on a straight line method (based on the normal, estimated useful life expectancy of the asset).

(l) "Disallowed costs" means costs which have been incurred but are not reimbursable because they are not reasonable and/or necessary for the performance of the contract as defined in Section 18013(s) of this Division or are nonreimbursable as specified in Section 18035 of this Division.

(m) "Indirect cost allocation plan" means a written justification and rationale for assigning the relative share of indirect costs across more than one program or contract.

(n) "Indirect cost" means an expense that cannot be readily assigned to one specific program or one specific line item within a program.

(o) "Maximum reimbursable amount" means the total dollar amount of a contract. Reimbursement from the State shall not exceed the maximum reimbursable amount. The initial maximum reimbursable amount shall be the approved original version of the annual contract based on the Budget Act as signed by the Governor.

(p) "Net reimbursable program costs" means the portion of the actual and allowable net costs which are incurred in the provision of child care and development services for subsidized children.

(q) "Private contractor" means an entity other than a public agency which is tax exempt or non-tax exempt and under contract with the State Department of Education for the provision of child care and development services.

(r) "Public contractor" means a school district, community college district, county superintendent of schools, campus of the California State University or the University of California system, county, city or other public entity under contract with the State Department of Education for the provision of child care and development services.

(s) "Reasonable and necessary costs" means expenditures that, in nature and amount, do not exceed what an ordinarily prudent person would incur in the conduct of a competitive business.

(t) "Restricted income" means income which the donor designates may only be expended for specific limited purposes that are reimbursable according to the contract.

(u) "Total contract amount" for the purpose of determining the limit of allowable administrative and program support services for Alternative Payment type programs means either the initial maximum reimbursable amount or the total of direct payments to providers, which includes family fees for certified children and interest earned on advanced contract funds, plus reimbursable administrative and support services costs, whichever is greater.

(v) "Total expenditures" means all costs for the provision of subsidized services under the contract and any nonsubsidized services which are provided in commingled classrooms.

(w) "Unnecessarily increase the value" means an improvement of a site beyond what is required to meet California Code of Regulations, title 22, Community Care Licensing Standards.

(x) "Unrestricted income" means income that has no restrictions regarding use by the donor, and income restricted by the donor for purposes that are not reimbursable according to the contract, including income for services to children not subsidized by the contract.

(y) "Use allowance" means an alternate method for claiming the use of the contractor's assets as a cost when depreciation methods are not used.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208 and 8261, Education Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.
2. Amendment of subsection (o), new subsection (u), subsection relettering and amendment of newly designated subsection (w) filed 11-13-2006 as an emergency; operative 11-13-2006 (Register 2006, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-13-2007 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11-13-2006 order, including further amendment of section, transmitted to OAL 3-8-2007 and filed 4-17-2007 (Register 2007, No. 16).

§ 18014. Notification of Address Change.

(a) Contractors shall notify the Child Development Division in writing of any change in mailing address for communication regarding the contract within ten (10) calendar days of the address change.

(b) Contractors shall notify the Child Development Division in writing of any proposed change in operating facility address(es) at least thirty (30) calendar days in advance of the change unless such change is required by an emergency such as fire, flood or earthquake.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18015. Private Agencies; Open Board Meetings.

Any private tax exempt or private non-tax exempt agency receiving public funds under these regulations must, to the extent of the publicly funded program, comply with the Ralph M. Brown Open Meetings Act, Government Code Sections 54950-54961.

NOTE: Authority cited: Sections 8203(f) and 8261, Education Code. Reference: Section 54951.7, Government Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18016. Materials Developed with Contract Funds.

(a) If the contractor receives income from materials developed with contract funds, the use of the income shall be restricted to the child development program.

(b) If the materials were developed in part with contract funds, the income from the sale of the materials that shall be used in the child development program shall be computed in direct proportion to the share of contract funds used in development of the materials.

(c) Materials developed with contract funds shall contain:

- (1) An acknowledgement of the use of State funds in the development of materials;
- (2) A disclaimer that the contents do not necessarily reflect the position or policy of the State Department of Education.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18017. Prohibition Against Religious Instruction or Worship.

The contractor shall not provide nor be reimbursed for child care and development services which include religious instruction or worship.

NOTE: Authority cited: Section 8269, Education Code. Reference: Section 8265, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18018. Prohibition Against Presigned Checks, Child Development Division Prior Written Approval; Two (2) Authorized Signatures on Checks.

Except for external payroll services, private contractors:

(a) Shall not use any presigned, preauthorized, or pre-stamped checks, without the prior written approval of the Child Development Division; and

(b) Shall require two (2) authorized signatures on all checks unless:

- (1) the contractor has a policy approved by its governing board requiring dual signatures only on checks above a specified dollar amount; and
- (2) the annual audit verifies that appropriate internal controls are maintained.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18019. Prohibition Against Loans and Advances.

(a) Contractors shall not loan contract funds to individuals, corporations, organizations, public agencies or private agencies.

(b) Contractors shall not advance unearned salary to employees.

(c) Contractors shall not make advance payments to subcontractors and shall compensate subcontractors after services are rendered or goods are received except for:

(1) Subcontractors providing direct child care and development services; and

(2) Subcontractors with subcontracts exempt from the provisions of Article 2 of this Chapter as specified in Section 18026 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18020. Compliance with Title 22 California Code of Regulations.

Contractors with facilities which are exempt by statute or otherwise exempt from licensure shall comply with health and safety regulations for day care centers and family child care homes as specified in Title 22 California Code of Regulations, Community Care Licensing Standards in order to qualify for child care and development program contract funds.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18021. Payments to Family Child Care Providers.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.
2. Repealer filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12–29–2003 order transmitted to OAL 4–26–2004 and filed 6–8–2004 (Register 2004, No. 24).

§ 18022. Contracts with Multiple Service Areas.

(a) A contractor with more than one service delivery area as specified in and funded through a single contract shall maintain service at the same level, plus or minus ten percent (10%) of the contracted child hours or child days of enrollment, as applicable, in the individual service area(s) specified in its current contract.

(b) The contractor may request approval from the Child Development Division to vary service levels by more than ten percent (10%) if the contractor can demonstrate that the need for services in the designated area(s) has changed.

(c) The Child Development Division shall approve or deny the request within thirty (30) calendar days of receipt of the request.

(d) If the request is denied, the contractor may appeal this decision in accordance with Section 18308 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8269, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18023. Compliance Reviews of Contractors.

(a) Definitions.

(1) "Compliance review" means that a team of California Department of Education staff reviews a contractor's program at the program site to determine compliance with applicable laws, regulations, or contractual provisions.

(2) "CCR" means the monitoring and review instrument for child development programs that is used to determine compliance and is contained within the "Coordinated Compliance Review Guide — 2003–2004", a document that is incorporated by reference.

(b) At least once every three (3) years and as resources permit, the California Department of Education shall conduct reviews at the contractor's office(s) and operating facility(ies) to determine the contractor's compliance with applicable laws, regulations or contractual provisions.

(c) The reviews shall be conducted according to the provisions of CCR, as defined in subsection (a)(2) of this section.

(d) The reviews shall be conducted by consultants, analysts, and/or management staff of the California Department of Education or other State of California representatives.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 77, No. 39.
2. Amendment of section and NOTE filed 9–23–2003; operative 9–23–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18024. Contractor's Termination for Convenience.

(a) A contractor may terminate the contract for any reason during the contract term.

(b) The contractor shall notify the Child Development Division of its intent to terminate the contract at least ninety (90) calendar days prior to the date the contractor intends to terminate the contract.

(c) Within fifteen (15) days from the date the contractor notifies the Child Development Division of its intent to terminate the contract, the contractor shall submit:

(1) A current inventory of equipment purchased in whole or in part with contract funds; and

(2) The names, addresses and telephone numbers of all families served by the contract and all staff members funded by the contract.

(3) Family child care home and Alternative Payment program contractors shall also submit the names, addresses and telephone numbers of all providers of subsidized services funded by the contract.

(d) Upon receipt of a notice of intent to terminate, the Child Development Division will transfer the program to another agency as soon as practicable.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. Repealer and new section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For prior history, see Register 77, No. 39.

§ 18025. Title, Use, Disposition and Retention of Equipment.

(a) Title. When equipment is purchased with State funds, title shall vest in the contractor only for such period of time as the contractor has a contract with the State Department of Education.

(b) Retention of Equipment. The Child Development Division may provide written authorization for the contractor to retain the equipment for the contractor's own use if a fair compensation is paid to the State for the State's share of the cost of the equipment. Fair compensation shall be determined by the State using the State's share of original acquisition cost, less depreciation, computed on a straight line method over the estimated useful life expectancy of the equipment.

(c) Use. When equipment is purchased in whole or in part with State funds, the contractor shall use the equipment exclusively in the program(s) from which funds were used to purchase the equipment. If the contractor wishes to share the use of the equipment between/among two (2) or more programs, the cost of such equipment shall be prorated between/among the programs.

(d) Disposition. If the contractor no longer has a contract with the State Department of Education, the contractor shall dispose of the equipment in accordance with written directions from the Child Development Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 2. Subcontracts

§ 18026. Subcontracts Excluded from Scope of This Article.

The following types of relationships are not subject to the regulations contained in this Article:

- (a) Employment agreements;
- (b) Facility rental or lease agreements;
- (c) Payment arrangements with family child care homes;
- (d) Payment arrangements with child care providers for Alternative Payment programs;
- (e) Medical or dental service agreements;
- (f) Bookkeeping/auditing agreements, except for Section 18027;
- (g) Food services agreements;
- (h) Janitorial and groundkeeping agreements;
- (i) A subcontract with a public agency; and
- (j) Subcontracts with an individual for less than ten thousand dollars (\$10,000.00), except for Section 18027.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18027. Private Contractors; Three (3) Bids for Subcontracts Exceeding the Amount Stated in Annual Contract.

Private contractors shall obtain at least three (3) bids or estimates for subcontracts that exceed the amount stated for subcontract bid requirements in the annual child development contract.

(a) The subcontract shall be awarded to the lowest responsible bidder.

(b) If three (3) bids or estimates cannot be obtained, the private contractor shall maintain documents in its records that establish:

- (1) The reasons why three (3) bids or estimates could not be obtained; and
- (2) The reasonableness of the proposed expenditure without three (3) bids or estimates.

(c) The contractor shall not split subcontracts to avoid competitive bidding requirements.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18028. Prior Child Development Division Approval Required for All Subcontracts Exceeding the Amount Stated in the Annual Child Development Contract.

Contractors shall obtain prior written approval from the Child Development Division for subcontracts that:

(a) Are not excluded from the provisions of this Article by Section 18026 of this Division; and

(b) Exceed the amount stated for subcontract approval in the annual child development contract.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18029. Required Documents for Prior Child Development Division Approval of Subcontracts.

The contractor shall submit the following documents to the Child Development Division before entering into any agreement with a proposed subcontractor and before any work begins pursuant to the proposed subcontract:

- (a) A copy of each bid or estimate;
- (b) If applicable, the documents required to be maintained under Section 18027(b) of this Division;
- (c) Identification of the lowest responsible bidder selected by the contractor;
- (d) For capital outlay subcontracts, documents showing that the bidder selected by the contractor has obtained a payment bond in an amount not less than one-half (1/2) the amount of the proposed subcontract; and
- (e) Two (2) copies of the proposed subcontract, including a proposed line-item budget which shows the costs of the services to be performed. The budget for a proposed subcontract for renovation and repair shall show the total cost of labor and the total cost of materials.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18030. Child Development Division Approval or Disapproval of Subcontract Within Thirty (30) Calendar Days.

(a) The Child Development Division shall approve or disapprove a proposed subcontract submitted for prior approval within thirty (30) calendar days following the receipt of all required documents.

(b) Upon approval or disapproval, the Child Development Division shall return a copy of the approved subcontract or a copy of the disapproved subcontract to the contractor.

(c) A disapproved contract will include a statement of the reason(s) for not approving the subcontract.

(d) If the request for approval of a subcontract is denied, the contractor may appeal the decision in accordance with instructions specified in Section 18308 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18031. Required Subcontract Provisions.

Every subcontract shall specify:

- (a) The dates within which the subcontractor is to perform the contract. The time for subcontractor performance shall not begin prior to, nor shall the time extend beyond, the time period of the contract between the contractor and the State.

(b) The dollar amount of the subcontract or specify an amount not to exceed a maximum dollar amount.

(c) The service(s) to be provided under the subcontract.

(d) The responsibilities of each party under the subcontract.

(e) That the subcontractor, and the agents and employees of the subcontractor, in the performance of the subcontract, are acting in an independent capacity and not as officers or employees or agents of the State of California.

(f) That modifications of the subcontract shall be in writing, and that for subcontracts in excess of the amount stated in the annual child development contract, prior written Child Development Division approval is required unless the subcontract is otherwise exempt from prior Child Development Division approval.

(g) That the subcontract is the complete and exclusive statement of the mutual understanding of the parties and that the subcontract supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of the subcontract.

(h) Remedies, in case of a breach of contract, for subcontracts in excess of ten thousand dollars (\$10,000.00).

(i) That the State of California retains title to any equipment or supplies purchased with State funds and that the equipment shall be returned to the contractor upon termination of the subcontract. The subcontract shall also specify that the subcontractor shall obtain prior written approval from the contractor and the Child Development Division for any unit of equipment that costs in excess of the amount stated in the annual child development contract.

(j) That the subcontractor shall be reimbursed for travel and per diem expenses only at rates that do not exceed the rates paid to the majority of State Department of Education's represented employees computed in accordance with State Department of Personnel Administration regulations, Title 2 California Code of Regulations, Subchapter 1.

(k) That the subcontractor agrees to indemnify and hold harmless the State of California, its officers, agents and employees from any and all claims and losses occurring or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of the subcontract, and from any and all claims and losses occurring or resulting to any person, firm or corporation that may be injured or damaged by the subcontractor in the performance of the subcontract.

(l) That for those subcontracts requiring Child Development Division prior approval, the subcontractor shall maintain records for program review, evaluation, audit and/or other purposes and make the records available to agents of the State for a period of five (5) years.

(m) Contain provisions of the "Nondiscrimination Clause" included in the prime contract as specified in Title 2 California Code of Regulations, Chapter 5, Section 8107.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18032. Audit Requirements for Subcontracts.

(a) Subcontracts requiring Child Development Division approval shall be audited in accordance with State Department of Education Audit Guidelines.

(b) The cost of the audit shall be reimbursable and shall be borne by the contractor either directly or as an allowance in the subcontract.

(c) The audit of the subcontract shall be submitted to the State Department of Education as follows:

(1) School districts, county offices of education and community colleges shall submit the audit of the subcontract by the fifteenth day of the fifth month following the fiscal year in which the subcontracted services were performed;

(2) All other contractors shall submit the subcontract audit along with the contractor's audit as specified in Section 18071 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8448, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 3. Costs

§ 18033. General Standards.

Contractors will be reimbursed for actual costs that are reasonable and necessary to the performance of the contract as defined in Section 18013(s) of this Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8265 and 8275, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18034. Specific Items of Reimbursable Costs.

Reimbursable costs include, but are not limited to, the following:

(a) Start-up costs specified in Education Code Section 8275, not to exceed fifteen percent (15%) of the annual contract amount.

(b) Close-down costs for Migrant Programs as specified in Education Code Section 8233.

(c) Administrative costs, not to exceed fifteen percent (15%) of net reimbursable program costs. Such costs include activities that do not provide a direct benefit to the children, parents, or providers.

(d) Employee compensation, including fringe benefits, and personal service contracts.

(e) Equipment and equipment replacement with prior Child Development Division approval if required in the annual child development contract.

(f) Improvement of sites and adjacent grounds to meet or continue to meet Title 22 California Code of Regulations, Community Care Licensing Standards. Reimbursable improvements are those that:

(1) do not unnecessarily increase the value as defined in 18013(v) of this Division of a facility; and

(2) the contractor has obtained prior Child Development Division approval if required in the annual child development contract.

(g) Taxes, insurance, and maintenance for buildings and/or equipment.

(h) Depreciation based on the useful life of an asset using a straight line method from the original date of acquisition. Depreciation shall not be claimed on land, donated assets or assets purchased with public funds.

(i) A use allowance for buildings and improvements, computed at annual rate not to exceed two percent (%) of acquisition costs. A use allowance for equipment computed at an annual rate not to exceed six and two-thirds percent (6 2/3%) of acquisition costs. A use allowance shall not be claimed on assets purchased with contract funds or on land, and shall not be claimed for assets for which depreciation has been claimed.

(j) Travel and per diem expenses, including approved out-of-state travel, at rates not to exceed those rates paid to the majority of State Department of Education's represented employees computed in accordance with State Department of Personnel Administration regulations, Title 2 California Code of Regulations, Subchapter 1. The Child Development Division shall notify the contractor of a change in expense rates within thirty (30) calendar days after the Child Development Division has received notification of a change in rates from the State Department of Personnel Administration.

(k) An indirect cost rate based on an approved cost allocation plan, not to exceed the rate specified in the annual child development contract.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18035. Nonreimbursable Costs.

The following costs shall not be reimbursable under the child development contract:

(a) Bad debts, including losses arising from uncollectible accounts and any related legal costs. Uncollected parent fees are not considered to be bad debts if documentation of collection attempts exists;

(b) Contributions;

- (c) Costs of amusement or entertainment;
- (d) Costs of fines or penalties;
- (e) Costs of idle facilities unless those costs are related to a partial year program and the costs of the idle facilities have been approved by the Child Development Division;
- (f) Costs incurred after the contract has been terminated;
- (g) Fund raising costs except as specified in Section 18277 of this Division;
- (h) Consumer interest except:
 - (1) Interest on borrowed funds when apportionments are withheld because of a delay or error attributable to the State and the amount of interest claimed is approved by the Child Development Division; or
 - (2) when interest is part of a lease purchase agreement.
- (i) Investment management costs;
- (j) Costs of organization of a nonprofit corporation such as incorporation fees or consultant fees;
- (k) Public relations consultant fees;
- (l) Costs of legal, consulting and accounting services incurred in prosecution of claims against the State;
- (m) State and federal income taxes;
- (n) Costs for the acquisition of sites and buildings except through depreciation;
- (o) Bonuses unless part of a collective bargaining agreement;
- (p) Compensation to the members of the board of directors except for:
 - (1) reimbursement, computed in accordance with Section 18034 of this Division, for travel and/or per diem incurred while the members are conducting business for the organization; and
 - (2) as provided in the California Corporation Code Section 5227, et seq.
- (g) Costs of subcontracts which increase the contractor's cost or subcontracts which contain a provision for reimbursement for cost-plus a percentage-of-costs.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8208(o) and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18037. Charging of Expenditures.

Reimbursement for net reimbursable program costs shall meet the following criteria:

- (a) Costs must be incurred during the contract period.
- (b) Contractors shall not use current year contract funds to pay prior or future year obligations.
- (c) The cost of the annual independent audit may be claimed either in the contract period which was the subject of the audit or during the contract period in which the audit is completed.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18038. Recoupment of Advanced Contract Funds.

(a) The State Department of Education shall recoup any payments made for costs which were not reasonable and necessary. The amount that is recouped shall be the excess payment over the reasonable or fair market value, or one hundred percent (100%) of the cost, if the cost was not necessary.

(b) The State Department of Education may elect to recover any costs of recoupment, including collection services or attorney fees.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18039. Use of Subsidized Parent Fees.

(a) Fees received from subsidized parents are to be expended and earned by the contractor before contract funds shall be claimed for reimbursement.

(b) Such fees shall be expended on reimbursable costs and earned by providing child days/hours of enrollment beyond the minimum required by the contract at a rate equal to the lesser of the daily/hourly contract rate or the actual cost.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18040. Prior Approval for Certain Capital Outlay Expenditures.

(a) When expenditures for equipment, equipment replacement and improvements exceed the level specified in the annual child development contract, private contractors shall obtain at least three (3) bids or estimates:

- (1) Award shall be made to the lowest responsible bidder;
- (2) If three (3) bids or estimates cannot be obtained, the contractor shall maintain documentation that specifies the reason(s) why three (3) bids or estimates could not be obtained and establishes the reasonableness of the cost without three (3) bids or estimates;

(b) When expenditures for equipment, equipment replacement and improvements exceed the level specified in the annual child development contract, the contractor shall request prior written approval from the Child Development Division.

(c) The Child Development Division shall approve or deny the request for the capital outlay expenditure within thirty (30) calendar days of the receipt of the request;

(d) If the request is denied, the contractor may appeal the decision in accordance with instructions specified in Section 18302 of this Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18041. Prior Approval for Out-of-State Travel.

(a) Contractors shall be reimbursed for out-of-state travel expenses only with prior written approval from the Child Development Division. The Child Development Division shall not approve out-of-state travel expenses:

- (1) For more than one employee per contract per year;
- (2) For contractors with delinquent accounts payable which are delinquent more than ninety (90) calendar days after the date of the original invoice;
- (3) For contractors on conditional status;
- (4) When there is no clear benefit to the state; or
- (5) When the benefit to the state can be obtained within California.

(b) The Child Development Division shall approve or deny the request for out-of-state travel within thirty (30) calendar days of the receipt of the request;

(c) If the request is denied, the contractor may appeal the decision in accordance with instructions specified in Section 18308 of this Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 4. Determination of Reimbursement

§ 18054. Determination of Reimbursable Amount.

(a) Except for Resource and Referral programs and Alternative Payment type programs, all contractors shall be reimbursed for an audited claim that is the least of the following:

- (1) The maximum reimbursable amount as stated in the annual child development contract; or
- (2) The net reimbursable program costs; or
- (3) The product of the adjusted child days/hours of enrollment for certified children, times the contract rate per child day/hour of enrollment, times the actual percentage of attendance plus five percent (5%), but in no case to exceed one hundred percent (100%) of enrollment;

(b) Resource and Referral programs will be reimbursed for the lesser of (a)(1) or (a)(2) of this section.

(c) Alternative Payment type programs shall be reimbursed for an audited claim that is the least of the following:

(1) The maximum reimbursable amount as stated in the annual child development contract; or

(2) The amount earned, which is reimbursable expenditures of:

(A) direct payments to providers, which includes family fees for certified children and interest earned on advanced contract funds; and

(B) actual administrative and support costs directly related to child care services provided, which combined cannot exceed the allowable percentage of the total contract amount.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsection (a) and new subsections (c)-(c)(2)(B) filed 11-13-2006 as an emergency; operative 11-13-2006 (Register 2006, No. 46). A Certificate of Compliance must be transmitted to OAL by 3-13-2007 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 11-13-2006 order, including amendment of subsection (c)(2)(B), transmitted to OAL 3-8-2007 and filed 4-17-2007 (Register 2007, No. 16).

§ 18055. Minimum Days of Operation.

If the contractor fails to operate at least ninety eight percent (98%) of the minimum days of operation required in its contract, ceases operation or the contract is terminated prior to the end of the contract period, the maximum reimbursable amount shall be reduced in proportion to the percentage of the contract minimum days of operation that the contractor was not in operation.

NOTE: Authority cited: Section 8269, Education Code. Reference: Section 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18056. Reduction, Withholding, and Cancelling Apportionments to Contractors.

(a) The State Department of Education shall reduce, withhold or cancel any scheduled apportionment when one or more of the following conditions exist:

(1) The contractor has not submitted an acceptable audit for any prior year of operation on or before the date due.

(2) The contractor has not submitted the reports required by Sections 18068, 18069, 18070, 18071, 18072 and 18073 of this Division, if applicable, on or before the date due.

(3) The contractor will not earn the full contract amount based on the current year projected and the prior year actual net reimbursable programs costs as determined by the State Department of Education, Local Assistance Bureau.

(4) A creditor of the contractor has placed a lien on the contractor's scheduled apportionments.

(5) The contractor has accounts payable which are:

(A) more than ninety (90) days delinquent to the State Department of Education; and

(B) not under appeal as specified in either Section 18301 or Section 18308 of this Division.

(b) If any apportionment is to be reduced, withheld or cancelled, the State Department of Education shall provide the contractor prior written notice of the intended action.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18057. Order of Expenditure.

Expenditure from the Child Development Fund shall occur in the following order:

(a) Fees collected from parents of certified children shall be first in and first out.

(b) State or federal contract funds apportioned by the State Department of Education shall be second in and second out.

(c) Interest received on advanced State Department of Education funds shall be last in and last out.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 5. Accounting and Reporting Requirements

§ 18063. General Provisions.

Contractors shall report expenditures on an accrual basis.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8448(g), Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 0).

§ 18064. Child Development Fund; Interest Bearing Accounts.

(a) All contractors shall establish a fund to be known as the "Child Development Fund" as specified in Education Code Section 8328, except that private contractors shall establish the fund in a federally insured banking institution located in California.

(b) Contractors with multiple fund sources shall establish separate program cost accounts for each source of funds.

(c) If a contractor places advanced contract funds in an interest bearing account, the interest bearing account shall be a separate account within the Child Development Fund.

(d) Interest earned shall be retained by the contractor if:

(1) Expended on reimbursable costs; and

(2) Except Resource and Referral programs, earned by providing subsidized days/hours of enrollment beyond the minimum required to earn the maximum reimbursable amount at a rate equal to the lesser of the daily/hourly contract rate or the actual program costs.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8328, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18065. Enrollment and Attendance Accounting.

(a) Contractors operating centers and/or family child care homes shall use daily sign-in/sign-out sheets as a primary source document for audit and reimbursement purposes.

(b) One of the following persons shall enter the time of arrival and departure on a sign-in/sign-out sheet and, except as specified in Subsection (c) below, shall sign the sheet using their full signature:

(1) The parent or other adult authorized by the parent to drop off/pick up a child; or

(2) The staff person designated by the contractor as the person responsible for entering the times of arrival and departure if the child is not dropped off/picked up by a parent or other adult authorized by the parent.

(c) First and last initials of the contractor's authorized representative along with a notation of the time are required to document when a school-age child departs for and returns from school during the day.

(d) Contractors operating an Alternative Payment program may use an alternative to daily sign-in/sign-out sheets as documentation of attendance for reimbursement purposes with the prior written approval of the Child Development Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18066. Verification of Excused Absence; Policies.

(a) If the absence is claimed by the contractor as an excused absence as defined in Education Code Section 8208(d), the attendance accounting records shall contain verification that includes:

(1) The name of the child;

- (2) The date(s) of absence;
- (3) The specific reason for the absence; and
- (4) The signature of the parent or the contractor's authorized representative if verification is made by telephone.

(b) If an excused absence is based on time spent with a parent or other relative as required by a court of law, the basic data file shall contain a copy of the Court Order.

(c) Contractors shall adopt reasonable policies delineating circumstances that would constitute an excused absence for "family emergency" and "in the best interest of the child."

(d) Contractors shall also adopt a policy governing unexcused absences which may include reasonable limitations, if any.

(e) Contractors shall inform parents of these policies.

(f) Except for children who are recipients of protective services or at risk of abuse or neglect, excused absences "in the best interest of the child" shall be limited to ten (10) days during the contract period.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208(d), 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsection (f) filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18067. General Recordkeeping Requirements.

- (a) All records shall be retained for a minimum period of five (5) years.
- (b) Claims for reimbursement shall not be paid unless there are documents to support the claims. The contractor has the burden of supporting claims for reimbursement.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18068. Attendance and Expenditure Reports.

(a) Contractors shall submit reports containing the following information for each contract to the California Department of Education at intervals specified in the annual child development contract:

- (1) Days/hours of enrollment and attendance for all children served in the program in the current reporting period and year to date;
- (2) Total days of operation in the current reporting period and year to date;

(3) Except for contractors operating Alternative Payment programs, the report shall include all services, revenues and expenditures for both subsidized and nonsubsidized children if nonsubsidized and subsidized children are commingled as defined in section 18013(i) of this division;

(4) Amount and sources of all revenues other than advanced contract funds for the current reporting period and the year to date; restricted and unrestricted income shall be reported as follows:

(A) restricted income expended during the contract period shall be reported as "restricted"; restricted income that is not expended during the contract period remains restricted and shall be considered "deferred revenue";

(B) all unrestricted income shall be reported as "unrestricted";

(5) Total expenditures related to the program operation for the current reporting period and the year to date, including all expenses for specific purposes as designated by restricted income and all non-reimbursable expenses.

(b) Reports not received by the due dates shall be considered delinquent. Penalties for delinquent reporting are specified in section 18056 of this division.

(c) Contractors on conditional or provisional status shall report monthly.

NOTE: Authority cited: Section 8269, Education Code. Reference: Section 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 4-17-2007; operative 4-17-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 16).

§ 18069. Service Data Report for Resource and Referral Programs.

Contractors operating Resource and Referral programs shall submit reports to the Child Development Division which contain the following data at intervals specified in the annual child development contract:

(a) Number of requests for general child care information and child care referrals.

(b) Age categories of child care requests and referrals:

- (1) Infants (birth to eighteen months);
- (2) Toddlers (eighteen months to thirty-six months);
- (3) Preschool (3 years to kindergarten enrollment); and
- (4) School-age (kindergarten enrollment to age 14).

(c) Time categories of child care referrals:

- (1) Full-time;
- (2) Part-time;
- (3) Before and after school;
- (4) Occasional (drop-in, temporary, emergency care);
- (5) Summer care only; and
- (6) Special time categories (nights, weekends, rotating shifts, swing shift, graveyard shift, etc.).

(d) Reasons for requesting referrals:

- (1) Employed or seeking employment;
- (2) School or training;
- (3) Respite care (emergency only);
- (4) Parental relief (non-emergency);
- (5) Child's developmental or special need;
- (6) Child is ill and cannot attend school or usual child care arrangement; and

(7) Child Protective Service referral.

(e) Number of technical services provided:

- (1) Written materials;
- (2) Telephone consultations;
- (3) Program visitations;
- (4) Office consultations;
- (5) Resource information library;
- (6) Toy/equipment lending library;
- (7) Published newsletters;
- (8) Conducted workshops or conferences;
- (9) Attended meetings with child care providers;
- (10) Attended meetings with child care related service agencies;
- (11) Coordinated workshops or conferences; and
- (12) Media contacts.

(f) Referral procedures utilized:

- (1) Telephone referrals service;
- (2) Answering machine requests for referrals;
- (3) Office hours for appointments or drop-in referrals; and
- (4) Evening or weekend office hours for referrals.

(g) Types of child care providers in resource file:

- (1) Centers;
- (2) Family child care home (licensed); and
- (3) In-home caregivers.

(h) Responses to referral requests:

- (1) Method of response;
- (2) Number of responses; and
- (3) Languages used to respond.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8212, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Amendment of subsection (d)(7) and amendment of NOTE filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10–14–2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5–6–2005 order transmitted to OAL 9–2–2005; disappeared by OAL and order of repeal as to 5–6–2005 order filed on 10–14–2005 (Register 2005, No. 41).
4. Amendment filed 10–14–2005 as an emergency; operative 10–14–2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–13–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10–14–2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18070. Report Data.

(a) Contractors shall submit statistical, cost and program data as requested by the State Department of Education in order for the Department to prepare various legislatively mandated reports, to meet state and federal reporting requirements, and for the effective administration of child care and development programs.

(b) By September 30 of each year, the State Department of Education shall issue a notice to all affected child development contractors of any data collection efforts planned for the current contract period.

(c) Contractors shall submit the data to the State Department of Education by the date specified in the State Department of Education's request for this information.

(d) Reports not received by the required due date shall be considered delinquent. Penalties for delinquent reporting are specified in Section 18056 of this Division.

(e)(1) Contractors shall provide a copy of the Child Care Data Collection Privacy Notice and Consent Form CD 9600A (New 01/01/00) which is incorporated by reference herein, to any head of a family unit at the time of enrollment and shall obtain a signed copy of that form indicating the head of household's decision whether to authorize or not authorize release of his or her social security number for the purposes of data collection and program management as described in this section.

(2) Each signed Child Care Data Collection Privacy Notice and Consent Form CD 9600A (New 01/01/00), whether the head of a family unit authorized or did not authorize release of his or her social security number, shall be retained by the contractor pursuant to the requirements of sections 18081 and 18117 of these regulations.

NOTE: Authority cited: Sections 8261 and 8261.5, Education Code. Reference: Sections 8261.5 and 8280, Education Code; Section 1798.24, Civil Code; and Section 7 of the Privacy Act of 1974 (Title 5, United States Code, Section 552a, Note: Disclosure of Social Security Numbers).

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Amendment of section heading and subsections (a) and (b), new subsections (e)(1) and (e)(2), and amendment of NOTE filed 12–29–99 as an emergency; operative 1–1–2000 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 5–1–2000 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section heading and subsections (a) and (b), new subsections (c)(1) and (c)(2) and amendment of NOTE refiled 4–28–2000 as an emergency; operative 4–28–2000 (Register 2000, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–28–2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–28–2000 order, including further amendment of NOTE, transmitted to OAL 7–19–2000 and filed 8–30–2000 (Register 2000, No. 35).

§ 18071. Audits and Auditors.

(a) Contractors shall submit to the State Department of Education Office of External Audits an acceptable annual financial and compliance audit.

(b) All audits shall be performed by:

(1) A Certified Public Accountant who possesses a valid license to practice within the State of California;

(2) A Public Accountant licensed on or before December 31, 1970 and currently certified and licensed by the State of California; or

(3) A member of the State Department of Education staff of auditors.

(c) Non-school district contractors shall submit the audit by the fifteenth day of the fifth month following the end of the contract period or earlier if specified by the State Department of Education.

(d) The audits for school districts and county offices of education shall be submitted to the State Controller by November 15, or by December 31 if an extension has been approved by the applicable county superintendent of schools.

(e) If, for any reason, the contract is terminated during the contract period, the audit shall cover the period from the beginning of the contract through the date of termination.

(f) Public agencies may have their audits prepared by in-house auditors if the public contractor has internal audit staff that performs auditing functions and meets the tests of independence found in Standards for Audits of Governmental Organization, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(g) Subcontracts which are required to have approval from the Child Development Division prior to their execution as specified in Section 18028 of this Division shall be audited in accordance with the requirements stated in Section 18032 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8448, 33420 and 41020.5.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18072. Review of Audit by the State Department of Education Office of External Audits.

(a) The State Department of Education Office of External Audits shall conduct a review of the audit to determine whether the audit is acceptable and to determine the contractor's net reimbursable program costs. The Office of External Audits' determination of earnings shall be the final accounting of any amount payable to or receivable from the contractor pursuant to the contract.

(b) The contractor may appeal the Office of External Audits' findings according to the procedures specified in Section 18301 of this Division if the amount of the demand for remittance meets or exceeds the threshold specified in Education Code Section 8402(c).

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261, 8402(c) and 8448, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18073. Delinquent Audits; One-Time Extension; Liability for State Department of Education Audit Costs.

(a) If an audit is not received on or before the required due date and an extension has not been granted, the audit shall be considered delinquent and all apportionments shall be withheld as specified in Section 18056 of this Division.

(b) Except for contractors on conditional status, the State Department of Education Office of External Audits may grant a contractor a one-time only, thirty (30) calendar day extension of the audit due date provided the inability of the contractor to submit the audit by the due date was beyond the fault and control of the contractor.

(c) Contractors shall be liable for all State Department of Education costs incurred in obtaining an independent audit if the contractor fails to produce or submit an acceptable audit.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8448, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

Subchapter 2.5. Utilization of the Regional Market Rate Ceiling

Article 1. General Provisions

§ 18074. Applicable Regulations.

The regulations contained in this Subchapter, except for those contained in Section 18075.1, shall apply to contractors using the regional market rate ceiling to develop reimbursement agreements with licensed and license-exempt providers of child care and development services to eligible families. Section 18075.1 applies to contractors developing reimbursement agreements with licensed providers only. For the purposes of this subchapter, the term “contractor” shall also apply to county welfare departments operating programs pursuant to Article 15.5, commencing with Section 8350, of Chapter 2 of Division 1 of the Education Code.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

HISTORY

1. New subchapter 2.5 (article 1), article 1 (sections 18074–18076.2) and section filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 2.5 (article 1), article 1 (sections 18074–18076.2) and section refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–29–2003 order, including amendment of subchapter heading and section, transmitted to OAL 4–26–2004 and filed 6–8–2004 (Register 2004, No. 24).

§ 18074.1. Definition(s).

(a) “Certified need for child care” means the number of days and hours of child care and development services approved and documented by the contractor as sufficient to meet the family’s need for child care.

(b) “Maximum subsidy amount” means the regional market rate ceiling plus any applicable adjustments pursuant to Sections 18075.1 or 18075.2.

(c) “Regional market rate ceilings” means the maximum amount calculated by the Department that providers in different regions of the state may be reimbursed for the same type of child care for the same age child in accordance with statutory ceilings currently in effect.

(d) “Subsidized families” means eligible families who are receiving child care and development services and on whose behalf the Department or the California Department of Social Services is providing a reimbursement, in whole or in part.

(e) “Unsubsidized” means children or families other than those defined in subdivision (d).

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8263, 8269 and 8461, Education Code.

HISTORY

1. New section filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–29–2003 order, including amendment of section, transmitted to OAL 4–26–2004 and filed 6–8–2004 (Register 2004, No. 24).
4. Change without regulatory effect repealing subsections (b)–(d), relettering subsections and amending newly designated subsection (e) filed 9–15–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

suant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

§ 18074.2. Application of Regional Market Rate Ceilings.

Contractors shall use the age of the child, the certified need for child care, and the facility type to identify the applicable regional market rate ceiling.

(a) The applicable facility type shall be determined as follows:

(1) Child care center rate ceilings shall be used for those providers who:

- (A) Operate licensed centers; or
- (B) Are public or private schools operating extended day programs; or
- (C) Operate centers on tribal or federal lands; or
- (D) Operate recreation programs exempt from licensure pursuant to Health and Safety Code Section 1596.792 and that meet the requirements for participation in the alternative payment program, including:

1. Using sign-in/sign-out documents to record attendance pursuant to Section 18065;

2. Providing adult supervision for all children during all hours of operation; and

3. Ensuring that all employees who have contact with children have completed criminal history background examinations comparable to the criminal history background examinations required by Chapter 3.35 of Division 2 of the Health and Safety Code, commencing with Section 1596.60.

(2) Family child care home rate ceilings shall be used for those providers who:

- (A) Operate licensed family child care homes; or
- (B) Operate a child care business in a home setting on tribal or federal land.

(3) In-home/exempt rate ceilings shall be used for all other providers. If no ceiling is provided for the applicable reimbursement rate category pursuant to Section 18075, the contractor shall determine a ceiling by multiplying the regional market rate hourly ceiling by the hours of certified need.

(b) For children enrolled in kindergarten who are less than six years of age, the applicable age category shall be determined as follows:

(1) Providers identified in (a)(1) above shall utilize:

(A) The 6+ age category when the child is considered school-age for licensing purposes.

(B) The 2–5 age category when the child is considered preschool age for licensing purposes.

(2) Providers identified in (a)(2) and (a)(3) above shall utilize:

(A) The 6+ age category when the child is six years of age or older.

(B) The 2–5 age category when the child is less than six years of age.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

HISTORY

1. New section filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–29–2003 order, including repealer and new section, transmitted to OAL 4–26–2004 and filed 6–8–2004 (Register 2004, No. 24).

§ 18074.3. Establishment of Reimbursement Rate.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8265, 8266.5, 8269 and 8357, Education Code.

HISTORY

1. New section filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section heading, repealer and new section and amendment of NOTE, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).
4. Change without regulatory effect repealing section filed 9-15-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

§ 18074.4. Establishment of Provider Reimbursement Rate Utilizing the Comparable Local Rate.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8265, 8266.5, 8269 and 8357, Education Code.

HISTORY

1. New section filed 6-8-2004; operative 6-8-2004 (Register 2004, No. 24).
2. Change without regulatory effect repealing section filed 9-15-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

§ 18074.5. Establishment of Hourly Reimbursement Rate for In-Home/Exempt Providers.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

HISTORY

1. New section filed 6-8-2004; operative 6-8-2004 (Register 2004, No. 24).
2. Change without regulatory effect repealing section filed 9-15-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

§ 18074.6. Determination of Reimbursement Amount.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

HISTORY

1. New section filed 6-8-2004; operative 6-8-2004 (Register 2004, No. 24).
2. Change without regulatory effect repealing section filed 9-15-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 37).

§ 18075. Reimbursement Rate Categories.

Contractors shall reimburse providers in accordance with the following rate categories.

(a) Hourly, which shall only be used for the following:

(1) A child's certified need for child care of less than 30 hours per week and less than six hours on any day; or

(2) An unscheduled but documented need of less than six hours per occurrence, such as the parent's need to work overtime, that exceeds the certified need for child care; or

(3) That portion of the certified need for child care that exceeds 52.5 hours per week and is not included in the provider's full-time weekly or full-time monthly rate. This provision applies only if the family utilizes no more than one provider to meet the child's entire need for child care and development services. Additional payment made under the hourly rate for this purpose cannot exceed the provider's full-time weekly or full-time monthly rate.

(b) Daily, which shall only be used for the following:

(1) A certified need for child care of six hours or more per day; or

(2) An unscheduled but documented need of six hours or more per occurrence, such as the parent's need to work on a regularly scheduled day off, that exceeds the certified need for child care.

(c) Part-time weekly, which shall only be used when a certified need for child care less than 30 hours per week.

(d) Full-time weekly, which shall only be used when a certified need for child care is 30 hours or more per week.

(e) Part-time monthly, which shall only be used for the following:

(1) A certified need for child care of less than 30 hours per week and that need occurs in every week of the month; or

(2) A certified need for child care averages less than 30 hours per week when calculated by dividing the total number of hours of need in the month by 4.33, and that need occurs in every week of the month.

(f) Full-time monthly, which shall only be used for the following:

(1) A certified need for child care of 30 hours or more per week and that need occurs in every week of the month; or

(2) A certified need for child care averages 30 hours or more per week when calculated by dividing the total number of hours of need in the month by 4.33, and that need occurs in every week of the month.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222 and 8357, Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18075.1. Adjustment for Evenings and/or Weekends for Licensed Providers.

(a) This section applies only to reimbursement to licensed providers, except this section shall not apply to reimbursement provided pursuant to the hourly rate defined in Section 18075(a).

(b) When a licensed provider is meeting the certified need for child care that includes hours during the period from 6:00 p.m. to 6:00 a.m. on any day of the week or from 6 a.m. Saturday to 6:00 a.m. Monday, the contractor shall multiply the regional market rate ceiling for the applicable rate category by the appropriate adjustment factor as follows:

(1) By 1.25 when 50 percent or more of the certified need for child care occurs during this period.

(2) By 1.125 when at least ten percent, but less than 50 percent of the certified need for child care occurs during this period.

(c) Reimbursement to the provider shall be the lesser of the amount the provider charges unsubsidized families for the same hours of child care, or the maximum subsidy amount as determined pursuant to subsection (b) above.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222 and 8357, Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section heading and section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18075.2. Adjustment for Children with Exceptional Needs.

(a) When child care and development services are provided to a child with exceptional needs, the contractor shall multiply the lesser of the regional market rate ceiling or the rate determined pursuant to Section 18074.3 or 18074.4, whichever is lower, by only one of the following:

(1) By 1.2, when the child has exceptional needs as defined in Education Code Section 8208(l).

(2) By 1.5, when the child is severely disabled as defined in Education Code Section 8208(x).

(b) Contractors shall apply this adjustment only when there is documentation that additional services and/or accommodations for that particular child are being provided, and such services and/or accommodations result in an on-going financial impact on the provider.

NOTE: Authority cited: Sections 8222, 8265, 8265.5 and 8269, Education Code. Reference: Sections 8208(l) and 8208(x), Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section heading and section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18076. Limitations on Reimbursement.

(a) Single Rate Category. Contractors shall only reimburse providers using a single rate category as defined in Section 18075.

(b) Notwithstanding subsection (a), contractors may provide reimbursement to a provider using both a daily and an hourly rate when:

(1) No single rate established by the provider corresponds to the family's need for care; and

(2) The provider has established a rate in both daily and hourly rate categories pursuant to Section 18074.3; and

(3) Using both rates is consistent with the rates the provider charges unsubsidized families needing similar hours of care.

(c) Notwithstanding subsection (a), when Sections 18075(a)(2), 18075(a)(3), or 18075(b)(2) are applicable, contractors may reimburse providers for those categories in addition to the applicable single category.

(d) Contractors shall not be bound by the regional market rate ceilings when there are, in the region, no more than two child care providers of the type needed by the subsidized family. For the purposes of this subsection, types of providers are licensed child care centers, licensed family child care homes, and exempt providers.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5 and 8357, Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by

4-27-2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18076.1. Other Reimbursable Fees.

(a) The contractor shall reimburse fees charged by providers such as registration, materials, and insurance, either in a single payment or prorated over a 12-month period, as long as:

(1) The provider documents that the contractual terms used for services to unsubsidized families require payment for such fees; and

(2) The fees or prorated portion thereof, plus the rate established for the provider pursuant to this subchapter, do not exceed the maximum subsidy amount.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5 and 8357, Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-29-2003 order, including amendment of section heading and section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18076.2. Reimbursable Hours of Care.

(a) This section does not apply to reimbursement for services provided pursuant to Sections 18075(a)(2), (a)(3), and (b)(2) of this subchapter.

(b) Reimbursable hours for the child's regular provider shall include:

(1) Time that a child's absence is deemed excused pursuant to Section 18066 and the time the child is absent when the contractual terms used by the provider for services to unsubsidized families require payment for such absences. Reimbursement for an excused absence based on the child's illness shall not occur in lieu of providing accommodations for the child pursuant to the applicable provisions of the Americans with Disabilities Act.

(2) Time that the provider has a paid day of non-operation and can provide documentation that the contractual terms used by the provider for services to unsubsidized families require payment for such day(s) of non-operation. The number of reimbursable paid day(s) of non-operation shall be limited to a maximum of ten days per fiscal year per provider.

(c) Reimbursable hours for an eligible alternate provider shall include:

(1) Time that services are provided when the regular provider has a paid day of non-operation, and the parent has to obtain an alternate provider to meet the certified need for child care. Payment to an alternate provider when the regular provider has a paid day of non-operation shall be limited to ten days per child per fiscal year.

(2) Time that child care services are provided by an eligible alternate provider when the child is ill and the parent has to obtain care from an eligible alternate provider. Payment to an alternate provider when the child is ill shall be limited to a maximum of ten days per child per fiscal year. Contractors may reimburse an alternate provider in excess of ten days per year based on the illness of the child if the parent provides a physician verification.

(d) Reimbursable hours do not include:

(1) The scheduled instructional minutes of a public educational program available to a school-age child, or a private school in which the child is enrolled and attending.

(2) Time when the child is receiving any other child care and development services.

(3) Days on which the provider is not open to provide services, except as specified in subsection (b)(2). A contractor shall reimburse an alternate provider when the regular provider is not open to provide services and the subsidized family must obtain an alternate provider during the certified need for child care.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8208(e), 8263, 8266.5 and 8357, Education Code.

HISTORY

1. New section filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-29-2003 order, including amendment of section heading and section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18076.3. Reimbursement to Multiple Providers.

(a) Except for reimbursement pursuant to Section 18076.2(c), contractors shall reimburse only one provider of child care services per child when the hours of operation of the child care provider selected by the parent can accommodate the certified need for child care. Contractors may reimburse more than one provider per child when the hours of operation of the first provider cannot accommodate the certified need for child care.

(b) Notwithstanding subsection (a), when a family's first provider is not a licensed center and the parent also chooses a licensed center for the specific purpose of providing the child with large group school readiness experiences, the contractor may also reimburse the services provided by the licensed center provider.

(c) Contractors who pay multiple providers pursuant to this section shall not pay more than one provider for the same portion of a child's certified need for child care.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269, Education Code.

HISTORY

1. New section filed 6-8-2004; operative 6-8-2004 (Register 2004, No. 24).

Subchapter 3. General Child Care Programs

Article 1. General Provisions

§ 18077. Scope of Chapter.

Unless otherwise provided in this Division, the regulations in this chapter apply to all contracting agencies authorized to establish, maintain, or operate services pursuant to the Child Care and Development Services Act, Chapter 2, Part 6 of Title 1 of the California Education Code (commencing with Section 8200).

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50). For history of former Chapter 3 (Sections 18201-18208), see Register 79, No. 16.

§ 18078. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) "Adjusted monthly income" means the total countable income as defined in subdivision (q) below, minus verified child support payments paid by the parent whose child is receiving child development services, excluding the non-countable income listed below:

- (1) Earnings of a child under age 18 years;
- (2) Loans;
- (3) Grants or scholarships to students for educational purposes other than any balance available for living costs;
- (4) Food stamps or other food assistance;
- (5) Earned Income Tax Credit or tax refund;
- (6) GI Bill entitlements, hardship duty pay, hazardous duty pay, hostile fire pay, or imminent danger pay;
- (7) Adoption assistance payments received pursuant to Welfare and Institutions Code section 16115 et seq.;
- (8) Non-cash assistance or gifts;
- (9) All income of any individual counted in the family size who is collecting federal Supplemental Security Income (SSI) or State Supplemental Program (SSP) benefits;
- (10) Insurance or court settlements including pain and suffering and excluding lost wages and punitive damages;
- (11) Reimbursements for work-required expenses such as uniforms, mileage, or per diem expenses for food and lodging;
- (12) Business expenses for self-employed family members;
- (13) When there is no cash value to the employee, the portion of medical and/or dental insurance documented as paid by the employer and included in gross pay; and
- (14) Disaster relief grants or payments, except any portion for rental assistance or unemployment.

(b) "Certify eligibility" means the formal process the contractor goes through to collect information and documentation to determine that the family and/or child meets the criteria for receipt of subsidized child development services as specified in Education Code sections 8263(a)(1) and 8263(a)(2). The signature of the contractor's authorized representative on an application for services attests that the criteria have been met.

(c) "Child protective services" means children receiving protective services through the local county welfare department as well as children identified by a legal, medical, social service agency or emergency shelter as abused, neglected or exploited or at risk of abuse, neglect or exploitation.

(d) "Declaration" means a written statement signed by a parent under penalty of perjury attesting that the contents of the statement are true and correct to the best of his or her knowledge.

(e) "Displace families" means to disenroll families in order to reduce service levels due to insufficient funding or inability of a contractor to operate one or more sites because of reasons stated in Education Code section 8271.

(f) "Family" means the parents and the children for whom the parents are responsible, who comprise the household in which the child receiving services is living. For purposes of income eligibility and family fee determination, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, "family" shall be considered the child and related siblings.

(g) "Fee schedule" means the "Family Fee Schedule," issued by the department pursuant to Education Code section 8447(e). The "fee schedule" is used by child development contractors to assess fees for families utilizing child care and development services.

(h) "Homeless" means a person or family that lacks a fixed, regular, and adequate night-time residence and has a primary night time residence that is:

(1) A supervised publicly or privately operated shelter, transitional housing, or homeless support program designed to provide temporary living accommodations; or

(2) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(i) "Income eligible" means for the purpose of child care and development services that a family's adjusted monthly income is at or below 75 percent of the state median income, adjusted for family size.

(j) "Income fluctuation" means income that varies due to:

(1) Migrant, agricultural, or seasonal work;

(2) Intermittent earnings or income, bonuses, commissions, lottery winnings, inheritance, back child support payment, or net proceeds from the sale of real property or stock;

(3) Unpredictable days and hours of employment, overtime, or self-employment.

(k) "Legally qualified professional" means a person licensed under applicable laws and regulations of the State of California to perform legal, medical, health or social services for the general public.

(l) "Parent" means a biological parent, adoptive parent, stepparent, foster parent, caretaker relative, legal guardian, domestic partner of the parent as defined in Family Code section 297, or any other adult living with a child who has responsibility for the care and welfare of the child.

(m) "Parental Incapacity" means the temporary or permanent inability of the child's parent(s) to provide care and supervision of the child(ren) for part of the day due to a physical or mental health condition.

(n) "Recipients of service" means families and/or children enrolled in a child care and development program subsidized by the California Department of Education.

(o) "Self-Certification of Income" means a declaration signed by the parent under penalty of perjury identifying:

(1) To the extent known, the employer and date of hire and stating the rate and frequency of pay, total amount of income received for the preceding month(s), the type of work performed, and the hours and days worked, when an employer refuses or fails to provide requested employment information or when a request for documentation would adversely affect the parent's employment; or

(2) The amount and frequency of sources of income for which no documentation is possible.

(p) "State median income" means the most recent median income for California families as determined by the State Department of Finance.

(q) "Total countable income" means all income of the individuals counted in the family size that includes, but is not limited to, the following:

(1) Gross wages or salary, advances, commissions, overtime, tips, bonuses, gambling or lottery winnings;

(2) Wages for migrant, agricultural, or seasonal work;

(3) Public cash assistance;

(4) Gross income from self-employment less business expenses with the exception of wage draws;

(5) Disability or unemployment compensation;

(6) Workers compensation;

(7) Spousal support, child support received from the former spouse or absent parent, or financial assistance for housing costs or car payments paid as part of or in addition to spousal or child support;

(8) Survivor and retirement benefits;

(9) Dividends, interest on bonds, income from estates or trusts, net rental income or royalties;

(10) Rent for room within the family's residence;

(11) Foster care grants, payments or clothing allowance for children placed through child welfare services;

(12) Financial assistance received for the care of a child living with an adult who is not the child's biological or adoptive parent;

(13) Veterans pensions;

(14) Pensions or annuities;

(15) Inheritance;

(16) Allowances for housing or automobiles provided as part of compensation;

(17) Portion of student grants or scholarships not identified for educational purposes as tuition, books, or supplies;

(18) Insurance or court settlements for lost wages or punitive damages;

(19) Net proceeds from the sale of real property, stocks, or inherited property; or

(20) Other enterprise for gain.

(r) "Update the application" means the process of revising the application for services between recertifications as specified in section 18103 of this chapter. The application shall be revised by inserting the latest family information that documents the continued need and eligibility for child care and development services.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8203, 8208 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section and NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.

3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).

4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.

5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

6. Amendment of section and NOTE filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

Article 2. Family Data File

§ 18081. Contents of Family Data File.

(a) Contractors shall establish and maintain a family data file for each family receiving child care and development services.

(b) The family data file shall contain a completed and signed application for services and the following records as applicable to determine eligibility and need in accordance with Education Code section 8263(a)(1) and (a)(2):

(1) Documentation of income eligibility, including an income calculation worksheet;

(2) Documentation of employment;

(3) Documentation of seeking employment;

(4) Documentation of training;

(5) Documentation of parental incapacity;

(6) Documentation of child's exceptional needs;

(7) Documentation of homelessness;

(8) Documentation of seeking permanent housing for family stability;

(9) Written referral from a legally qualified professional from a legal, medical, or social services agency, or emergency shelter for children at risk of abuse, neglect, or exploitation.

(10) Written referral from a county welfare department, child welfare services worker, certifying that the child is receiving protective services and the family requires child care and development services as part of the case plan.

(11) If the parent of the child was on cash assistance, the date the parental cash aid was terminated.

(c) A signed Child Care Data Collection Privacy Notice and Consent Form CD 9600A (Rev. 01/04) shall be included.

(d) Notice of Action, Application for Services and/or Recipient of Services shall be included.

(e) The family data file shall contain all child health and current emergency information required by California Code of Regulations, title 22, Social Security, Division 12, Community Care Facilities Licensing Regulations with the following exception. Immunization records are not required to be in the family data file for children attending a public or private elementary school or for children receiving care in licensed facilities and reimbursed pursuant to Education Code sections 8220 and 8350.

NOTE: Authority cited: Sections 8261, 8261.5, 8263 and 8269, Education Code. Reference: Sections 8261, 8261.5, 8263 and 8269, Education Code; and Sections 16500.5 and 16506, Welfare and Institutions Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsection (b) and amendment of NOTE filed 12-29-99 as an emergency; operative 1-1-2000 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-1-2000 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (b) and amendment of NOTE refiled 4-28-2000 as an emergency; operative 4-28-2000 (Register 2000, No. 17). A Certificate of Compliance must be transmitted to OAL by 8-28-2000 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4-28-2000 order, including further amendment of NOTE, transmitted to OAL 7-19-2000 and filed 8-30-2000 (Register 2000, No. 35).
5. Amendment of subsections (b) and (b)(8), new subsection (b)(9) and amendment of NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
7. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).
9. Amendment of article heading, section heading, section and NOTE filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18082. Certification of Eligibility.

(a) The contractor shall designate the staff person(s) authorized to certify family/child eligibility; and

(b) Prior to initial enrollment and at the time of recertification, an authorized representative of the contractor shall certify each family's/child's eligibility for child care and development services after reviewing the completed application and documentation contained in the basic data file.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8261, 8263 and 8269, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18083. Application for Services; Contents.

The application for services shall contain the following information:

(a) The parent's(s') full name(s), address(es) and telephone number(s);

(b) The names and birth dates of all children under the age of eighteen (18) in the family, whether or not they are served by the program;

(c) The number of hours of care needed each day for each child;

(d) The names of other family members in the household related by blood, marriage or adoption;

(e) The reason for needing child care and development services as specified in Education Code Section 8263(a)(2):

(1) Child Protective Services;

(2) Employment;

(3) Training;

(4) Seeking Employment;

(5) Incapacitation of the parent;

(6) Special Need of the Child; or

(7) Seeking Permanent Housing for Family Stability.

(f) Employment or training information for parent(s) including name and address of employer(s) or training institution(s) and days and hours of employment or training, if applicable;

(g) Eligibility status as specified in Education Code Section 8263(a)(1):

(1) Child Protective Services;

(2) Current Aid Recipient;

(3) Income Eligible; or

(4) Homeless.

(h) Family size and income, if applicable;

(i) The parent's signature and date of the signature;

(j) The signature of the contractor's authorized representative certifying the eligibility.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsections (e) and (g), new subsections (e)(2) and (g)(2), subsection renumbering and amendment of NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18084. Documentation of Income Eligibility.

The parent is responsible for providing documentation of the family's total countable income and the contractor is required to verify the information, as described below:

(a) The parent(s) shall document total countable income for all the individuals counted in the family size as follows:

(1) If the parent is employed, provide:

(A) A release authorizing the contractor to contact the employer(s), to the extent known, that includes the employer's name, address, telephone number, and usual business hours, and

(B) All payroll check stubs, a letter from the employer, or other record of wages issued by the employer for the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services

(2) When the employer refuses or fails to provide requested documentation or when a request for documentation would adversely affect the parent's employment, provide other means of verification that may include a list of clients and amounts paid, the most recently signed and completed tax returns, quarterly estimated tax statements, or other records of income to support the reported income, along with a self-certification of income.

(3) If the parent is self-employed, provide a combination of documentation necessary to establish current income eligibility for at least the month preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services. Documentation shall consist of as many of the following types of documentation as necessary to determine income:

- (A) A letter from the source of the income.
- (B) A copy of the most recently signed and completed tax return with a statement of current estimated income for tax purposes, or
- (C) Other business records, such as ledgers, receipts, or business logs.
- (4) Provide copies of the documentation of all non-wage income pursuant to section 18078(q), self-certification of any income for which no documentation is possible, and any verified child support payments pursuant to section 18078(a) of this chapter.

(b) The contractor:

- (1) Shall retain copies of the documentation of total countable income and adjusted monthly income in the family data file.
- (2) When the parent is employed, shall, as applicable, verify the parent's salary/wage; rate(s) of pay; potential for overtime, tips or additional compensation; hours and days of work; variability of hours and days of work; pay periods and frequency of pay, start date for the employee. If the employer refuses or is non-responsive in providing requested information or a request for employer documentation would adversely affect the parent's employment, and if the information provided pursuant to subdivision (a)(3) is inconsistent with the contractor's knowledge or community practice, shall request clarification in the self-certification of income, additional income information or a reasonable basis for concluding that the employer exists.

(3) When the parent is self-employed, shall obtain and make a record of independent verification regarding the cost for services provided by the parent that may be obtained by contacting clients, reviewing bank statements, or confirming the information in the parent's advertisements or website.

If the income cannot be independently verified, the contractor shall assess whether the reported income is reasonable or consistent with the community practice for this employment.

(4) May request additional documentation to verify total countable income to the extent that the information provided by the parent or the employer is insufficient to make a reasonable assessment of income eligibility.

(5) To establish eligibility, shall, by signing the application for services, certify to the contractor's reasonable belief that the income documentation obtained and, if applicable, the self-certification, support the reported income, are reliable and are consistent with all other family information and the contractor's knowledge, if applicable, of this type of employment or employer.

(c) If the family is receiving child care and development services because the child(ren) is/are at risk of abuse, neglect, or exploitation or receiving child protective services, and the written referral required by sections 18081(b)(9) and (b)(10) specifies that it is necessary to exempt the family from paying a fee, then the parent will not be required to provide documentation of total countable income.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsections (a) and (c), new subsection (e) and amendment of NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.

5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).
6. Amendment of section heading and section filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18085. Documentation of Public Assistance.

If the basis of eligibility as specified in Education Code section 8263(a)(1) is a current aid recipient, the parent shall provide documentation of public cash assistance, unless the contractor has and elects to use other means of obtaining verification.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18085.5. Documentation of Need Based on Employment, Seeking Employment, Training, Seeking Housing, and Incapacity; In General.

(a) Families who are eligible for subsidized child care and development services based on income, public assistance, or homelessness must document that each parent in the family, pursuant to section 18078(f), meets a need criterion, as specified in Education Code section 8263(a)(2)(B). The need criteria are: vocational training leading directly to a recognized trade, paraprofession, or profession; employment or seeking employment; seeking permanent housing for family stability; and incapacitation.

(b) Subsidized child care and development services shall only be available to the extent to which:

(1) The parent meets a need criterion as specified in subdivision (a) that precludes the provision of care and supervision of the family's child for some of the day;

(2) There is no parent in the family capable of providing care for the family's child during the time care is requested; and

(3) Supervision of the family's child is not otherwise being provided by school or another person or entity.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. New section filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18086. Documentation of Employment.

(a) If the basis of need as stated on the application for services is employment of the parent, the documentation of the parent's employment shall include the days and hours of employment.

(b) If the parent has an employer, the documentation of need based on employment shall consist of one of the following:

(1) The pay stubs provided to determine income eligibility that indicate the days and hours of employment;

(2) When the provided pay stubs do not indicate the days and hours of employment, the contractor shall verify the days and hours of employment by doing one of the following:

(A) Secure an independent written statement from the employer;

(B) Telephone the employer and maintain a record;

(C) If the provided pay stubs indicate the total hours of employment per pay period and if the contractor is satisfied that the pay stubs have been issued by the employer, specify on the application for services the days and hours of employment to correlate with the total hours of employment and the parent's need;

(D) If the variability of the parent's employment is unpredictable and precludes the contractor from verifying specific days and hours of employment or work week cycles, specify on the application for services that the parent is authorized for a variable schedule for the actual hours worked, identifying the maximum number of hours of need based on the week with the greatest number of hours within the preceding four weeks and the verification pursuant to subdivisions (A), (B), or (C) above. Until such time as the employment pattern becomes predictable, need for services shall be updated at least every four months and shall be based on the requirements of subdivision (b) and the child care services utilized;

(E) If the employer refuses or is non-responsive in providing the requested information, record the contractor's attempts to contact the employer, and specify and attest on the application for services to the reasonableness of the days and hours of employment based on the description of the employment and community practice; or

(F) If the parent asserts in a declaration signed under penalty of perjury that a request for employer documentation would adversely affect the parent's employment, on the application for services:

(i) Attest to the reasonableness of the parent's assertion; and

(ii) Specify and attest to the reasonableness of the days and hours of employment based on the description of the employment and community practice.

(3) When the employed parent does not have pay stubs or other record of wages from the employer and has provided a self-certification of income, as defined in section 18078(o), the contractor shall assess the reasonableness of the days and hours of employment, based on the description of the employment and the documentation provided pursuant to section 18084(a)(3), and authorize only the time determined to be reasonable.

(c) If the parent is self-employed, the documentation of need based on employment shall consist of the following:

(1) Parent provided information that includes:

(A) A declaration of need under penalty of perjury that includes a description of the employment and an estimate of the days and hours worked per week;

(B) To demonstrate the days and hours worked, a copy of one or more of the following: appointment logs, client receipts, job logs, mileage logs, a list of clients with contact information, or similar records; and

(C) As applicable, a copy of a business license, a workspace lease, or a workspace rental agreement.

(2) A statement by the contractor assessing the reasonableness of the total number of days and hours requested per week based on the description of the employment and the documentation provided pursuant to this section and section 18084. If the parent has unpredictable hours of employment, the contractor shall authorize the parent for a variable schedule not to exceed the number of hours determined to be needed per week. Need for services for unpredictable hours shall be updated at least every four months and shall be based on the requirements of subdivision (c). If the contractor has been unable to verify need based on the documentation provided, the contractor shall take additional action to verify self-employment that includes any one or more of the following:

(A) If the self-employment occurs in a rented space, contacting the parent's lessor or other person holding the right of possession to verify the parent's renting of the space;

(B) If the self-employment occurs in variable locations, independently verifying this information by contacting one or more clients whose names and contact information have been voluntarily provided by the parent; or

(C) Making other reasonable contacts or requests to determine the amount of time for self-employment.

(3) If the contractor is unable to make a reasonable assessment of the hours needed for self-employment after attempting to verify such hours and documenting the attempts, the contractor may divide the parent's self-employment income, as defined in section 18078(q)(4), by the applicable minimum wage. The resulting quotient shall be the maximum hours needed for employment per month.

(d) For the instances identified in subdivision (b)(2)(A) through (E) and (c), the parent shall provide a release to enable the contractor to obtain the information it deems necessary to support the parent's asserted days and hours worked per week.

(e) If additional services are requested for travel time or sleep time to support employment, the contractor shall determine, as applicable, the time authorized for:

(1) Travel to and from the location at which services are provided and the place of employment, not to exceed half of the daily hours authorized for employment to a maximum of four hours per day; or

(2) Sleep, if the parent is employed anytime between 10:00 p.m. and 6:00 a.m., not to exceed the number of hours authorized for employment and travel between those hours.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section heading and section filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18086.1. Documentation of Employment in the Home or a Licensed Family Day Care Home; Service Limitations.

(a) The requirements of this section are in addition to those stated in section 18086.

(b) If the parent's employment is in the family's home or on property that includes the family's home, the parent must provide justification for requesting subsidized child care and development services based on the type of work being done and its requirements, the age of the family's child for whom services are sought, and, if the child is more than five years old, the specific child care needs. The contractor shall determine and document whether the parent's employment and the identified child care needs preclude the supervision of the family's child.

(c) If the parent is a licensed family day care home provider pursuant to Health and Safety Code section 1596.78 or an individual license-exempt provider pursuant to Health and Safety Code section 1596.792, subdivisions (d) or (f), the parent is not eligible for subsidized services during the parent's business hours because the parent's employment does not preclude the supervision of the family's child.

(d) If the parent is employed as an assistant in a licensed large family day care home, pursuant to Health and Safety Code section 1596.78(b), and is requesting services for the family's child in the same family day care home, the parent shall provide documentation that substantiates all of the following:

(1) A copy of the family day care home license indicating it is licensed as a large family day care home;

(2) A signed statement from the licensee stating that the parent is the assistant, pursuant to the staffing ratio requirement of California Code of Regulations, title 22, section 102416.5(c);

(3) Proof that the parent's fingerprints are associated with that licensed family day care home as its assistant, which the contractor may verify with the local community care licensing office; and

(4) Payroll deductions withheld for the assistant by the licensee, which may be a pay stub.

NOTE: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. New section filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18086.5. Documentation of Seeking Employment; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is limited to 60 working days during the contract period, except as specified in subdivisions (d) and (e). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

(b) Documentation of seeking employment shall include a written parental declaration signed under penalty of perjury stating that the parent is seeking employment. The declaration shall include the parent's plan to secure, change, or increase employment and shall identify a general description of when services will be necessary.

(c) The contractor shall determine the number of working days available for seeking employment and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, a description of the

activities he or she has undertaken during the previous week to seek employment and, as appropriate, may require additional documentation.

(d) If the Governor declares a state of emergency and if the factual bases for the Governor's declaration indicate that opportunities for employment have temporarily diminished to such a degree that parents cannot be reasonably expected to find employment within 60 working days of diligent searching, the State Superintendent of Public Instruction (SSPI) may investigate to determine whether the 60-working-days limitation described in paragraph (a) should be suspended. If the SSPI determines that it is in the public interest to do so, he or she may, by order, suspend the 60-working-days limitation on eligibility during the period of the emergency or for a lesser time. The scope of the suspension, including the geographic areas and the persons affected, and its duration, shall be no more than necessary to respond to the emergency as determined in the SSPI's investigation, and shall be specifically described in the SSPI's order. If a parent's services for seeking employment were exhausted after an emergency was declared and before the SSPI suspends the eligibility limitation, the contractor may re-authorize services for seeking employment in accordance with the conditions specified in the SSPI's order.

(e) If the parent has concurrently received services based on employment or vocational training for at least 20 working days while receiving services for seeking employment, eligibility for seeking employment may be extended for an additional 20 working days. For such a parent, services for this purpose shall not exceed 80 working days during the contract period.

(f) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.

(g) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. Renumbering of former section 18101 to new section 18086.5, including amendment of section heading, section and NOTE, filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18087. Documentation of Training Toward Vocational Goals; Service Limitations.

(a) If the basis of need as stated on the application for services is vocational training leading directly to a recognized trade, paraprofession, or profession, child care and development services shall be limited, except as specified in subdivision (f), to whichever expires first:

- (1) Six years from the initiation of services pursuant to this section; or
- (2) Twenty four semester units, or its equivalent, after the attainment of a Bachelor's Degree.

(b) The parent shall provide documentation of the days and hours of vocational training to include:

- (1) A statement of the parent's vocational goal;
- (2) The name of the training institution that is providing the vocational training;
- (3) The dates that current quarter, semester, or training period, as applicable, will begin and end;
- (4) A current class schedule that is either an electronic print-out from the training institution of the parent's current class schedule or, if unavailable, a document that includes all of the following:
 - (A) The classes in which the parent is currently enrolled;
 - (B) The days of the week and times of day of the classes; and
 - (C) The signature or stamp of the training institution's registrar.
- (5) The anticipated completion date of all required training activities to meet the vocational goal; and
- (6) Upon completion of a quarter, semester, or training period, as applicable, a report card, a transcript, or, if the training institution does not use formal letter grades, other records to document that the parent is making

progress toward the attainment of the vocational goal in accordance with subdivision (f).

(c) A parent shall report any change in his or her class schedule related to the days and times of any class, including a withdrawal from a class, within five calendar days of requesting the change from the institution.

(d) Services may be provided for classes related to the General Education Development (GED) test or English language acquisition if such courses support the attainment of the parent's vocational goal.

(e) On-line or televised instructional classes that are unit bearing classes from an accredited training institution shall be counted as class time at one hour a week for each unit. The parent shall provide a copy of the syllabus or other class documentation and, as applicable, the Web address of the on-line program. The accrediting body of the training institution shall be among those recognized by the United States Department of Education.

(f) Continuation of services based on training is contingent upon making adequate progress. To make progress each quarter, semester, or training period, as applicable, the parent shall, in the college classes, technical school, or apprenticeship for which subsidized care is provided:

- (1) In a graded program, earn a 2.0 grade point average; or
- (2) In a non-graded program, pass the program's requirements in at least 50 percent of the classes or meet the training institution's standard for making adequate progress.

(g) The first time the parent does not meet the condition in subdivision (f), the parent may continue to receive services for one additional quarter, semester, or training period, as applicable, to improve the parent's progress. At the conclusion of that session, the parent shall, in the classes for which subsidized care was provided, have made adequate progress pursuant to subdivision (f). If the parent has not made adequate progress pursuant to subdivision (f), services for this purpose shall be:

- (1) Terminated; and
- (2) Available to the parent, to the extent provided by subdivision (a), after six months from the date of termination.

(h) No later than ten calendar days after the training institution's release of progress reports for the quarter, semester, or vocational training period, as applicable, the parent shall provide the contractor with a copy of the parent's official progress report. As it deems appropriate, the contractor may require the parent to:

- (1) Have an official copy of a progress report sent directly from the training institution to the contractor; or
- (2) Provide a release, as may be required by the training institution, to enable the contractor to verify the parent's progress with the institution.

(i) A parent may change his or her vocational goal, but services shall be limited to the time or units remaining from the initiation of the provision of services for vocational training as specified in subdivision (a).

(j) The contractor shall determine the days and hours needed per week, and whether the parent is making progress, based on the documentation. The contractor may request that the parent provide a publication from the training institution describing the classes required to complete the parent's vocational goal.

(k) If additional services are requested for study time or travel time to support the vocational training, the contractor shall determine, as appropriate, the amount of services needed for:

- (1) Travel to and from the location at which services are provided and the training location, not to exceed half of the weekly hours authorized for training to a maximum of four hours per day; or
- (2) Study time, including study time for on-line and televised instructional classes, according to the following:

(A) Two hours per week per academic unit in which the parent is enrolled;

(B) On a case-by-case basis and as may be confirmed with the class instructor, additional time not to exceed one hour per week per academic unit in which the parent is enrolled; and

(C) On a case-by-case basis, no more than the number of class hours per week for non-academic or non-unit bearing training.

(l) The service limitations specified in subdivision (a) shall not apply to a parent who demonstrates he or she is:

(1) As of June 27, 2008 receiving services for vocational training and has attained a Bachelor's Degree;

(2) Receiving services from a program operating pursuant to Education Code section 66060;

(3) Attending vocational training when the parent has been deemed eligible for rehabilitation services by the California Department of Rehabilitation; or

(4) Attending retraining services available through the Employment Development Department of the State or its contractors due to a business closure or mass layoff.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section heading, section and NOTE, filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18088. Documentation of Parental Incapacity; Service Limitations.

(a) If the basis of need as stated on the application for services is parental incapacity, child care and development services shall not exceed 50 hours per week.

(b) Documentation shall include a release signed by the incapacitated parent authorizing a legally qualified health professional to disclose information necessary to establish that the parent meets the definition of incapacity, pursuant to section 18078, and needs services.

(c) The documentation of incapacitation provided by the legally qualified health professional shall include:

(1) A statement that the parent is incapacitated, that the parent is incapable of providing care and supervision for the child for part of the day, and, if the parent is physically incapacitated, that identifies the extent to which the parent is incapable of providing care and supervision;

(2) The days and hours per week that services are recommended to accommodate the incapacitation, taking into account the age of the child and the care needs. This may include time for the parent's regularly scheduled medical or mental health appointments;

(3) The probable duration of the incapacitation; and

(4) The name, business address, telephone number, professional license number, and signature of the legally qualified health professional who is rendering the opinion of incapacitation and, if applicable, the name of the health organization with which the professional is associated.

(d) The contractor may contact the legally qualified health professional for verification, clarification, or completion of the provided statement.

(e) The contractor shall determine the days and hours of service based on the recommendation of the health professional and consistent with the provisions of this article.

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section heading, section and NOTE, filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18089. Documentation of the Child's Exceptional Needs.

The family data file shall contain documentation of the child's exceptional needs if the contractor is claiming adjustment factors pursuant to Education Code section 8265.5(b)(4) or (b)(5), the child with exceptional needs is 13 through 21 years of age, or the contractor is operating a program pursuant to Education Code section 8250(d). The documentation of exceptional needs shall include:

(a) A copy of the portion of the active individual family service plan (IFSP) or the individualized education program (IEP) that includes the information as specified in Education Code section 56026 and California Code of Regulations, title 5, sections 3030 and 3031; and

(b) A statement signed by a legally qualified professional that:

(1) The child requires the special attention of adults in a child care setting; and

(2) Includes the name, address, license number, and telephone number of the legally qualified professional who is rendering the opinion.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208, 8250, 8261, 8263 and 56026, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section heading, section and NOTE filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18090. Documentation of Homelessness.

If the basis of eligibility as specified in Education Code section 8263(a)(1) is homelessness, the family data file shall include documentation of homelessness. The documentation of homelessness shall include:

(a) A written referral from an emergency shelter or other legal, medical or social service agency; or

(b) A written parental declaration that the family is homeless and a statement describing the family's current living situation.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18091. Documentation of Seeking Permanent Housing; Service Limitations.

(a) If the basis of need as stated on the application for services is seeking permanent housing for family stability, the parent's period of eligibility for child care and development services is limited to 60-working-days during the contract period, except as specified in subdivision (d). Services shall occur on no more than five days per week and for less than 30 hours per week. The period of eligibility shall start on the day authorized by the contractor and extend for consecutive working days.

(b) Documentation of seeking permanent housing shall include a written parental declaration signed under penalty of perjury that the family is seeking permanent housing. The declaration shall include the parent's search plan to secure a fixed, regular, and adequate residence and shall identify a general description of when services will be necessary. If the family is residing in a shelter, services may also be provided while the parent attends appointments or activities necessary to comply with the shelter participation requirements.

(c) The contractor shall determine the number of weeks available for seeking permanent housing and the child care schedule, which may be a variable schedule, based on the documentation. During the period of authorization and if necessary to verify need, the contractor may request that the parent provide, no more than once a week, either a declaration signed under penalty of perjury describing the activities the parent has undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program regarding the parent's search progress to date.

(d) If the parent does not expect to secure housing prior to the end of the eligibility period:

(1) The parent may request an extension in a declaration of need signed under penalty of perjury that includes an update of the parent's search plan and either a description of the activities undertaken during the previous week to seek permanent housing or a signed statement from the shelter, transitional housing agency, or homeless support program indicating the parent's continued need for services; and

(2) The contractor may authorize an extension of search eligibility for up to 20 additional working days.

(e) If services for this purpose are discontinued, the number of working days remaining in the period of eligibility shall be available for a subsequent period of eligibility during the contract period.

(f) As used in this section, the working days used to determine the period of eligibility shall include the consecutive Mondays through Fridays, excluding any federal holidays.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section heading and section, filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18092. Documentation of Child Protective Services.

If eligibility and need as specified in Education Code Sections 8263(a)(1) and (a)(2) are based on child protective services, the basic data file shall contain a written referral, dated within the six (6) months immediately preceding the date of application for services, from a legal, medical, social service agency or emergency shelter. The written referral shall include either:

- (a) A statement from the local county welfare department, child protective services unit certifying that the child is receiving child protective services and that child care and development services are a necessary component of the child protective services plan; or
- (b) A statement by a legally qualified professional that the child is at risk of abuse or neglect and the child care and development services are needed to reduce or eliminate that risk; and
- (c) The probable duration of the child protective service plan or the at risk situation; and

- (d) The name, address, telephone number and signature of the legally qualified professional who is making the referral.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section and NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18092.5. Documentation of At Risk of Abuse, Neglect, or Exploitation. [Repealed]

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8208(k) and 8263, Education Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Repeal of emergency adoption filed 10-14-2005 by operation of Government Code section 11346.1(g). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
3. New section filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 2006, No. 20).

§ 18093. Certification of Federal Eligibility for the Federal Based Migrant Program.

Prior to enrolling a child in the Federal Based Migrant Program, the contractor shall certify that the child meets eligibility requirements of the Education Consolidation Improvement Act (E.C.I.A.), Chapter 1 Migrant funds. The certification documentation shall include:

- (a) The child's full name, date of birth and birthplace;
- (b) The parent(s) full name(s);
- (c) The child's most recent address and date of departure;
- (d) The child's current address and the date of arrival;

(e) Information about the employment of the parent(s) which identifies such employment as:

- (1) seasonal or temporary and
- (2) relating to fishing or agriculture;

(f) The purpose of the child's last move which qualifies the child for migrant services as defined in 34 Code of Federal Regulations, Section 201.3 (b);

(g) A statement signed by the parent(s) certifying that the child has moved with the family in order for the parent(s) to seek temporary or seasonal agriculturally related work;

(h) A statement signed by the contractor's authorized representative certifying that the child meets the eligibility criteria necessary to receive services funded by E.C.I.A., Chapter 1 Migrant funds; and

(i) Documentation that the parent has given consent for the child to participate in the program.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8233, 8261 and 8263, Education Code and 34 Code of Federal Regulations, Part 201.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18094. Notice of Action, Application for Services.

(a) The contractor's decision to approve or deny services shall be communicated to the applicant through a written statement referred to as a Notice of Action, Application for Services, in accordance with Section 18118 of this Division. The contractor shall maintain copies of the Notice of Action, Application for Services in the basic data file. The Notice of Action, Application for Services shall include:

- (1) The applicant's name and address;
- (2) The contractor's name and address;
- (3) The name and telephone number of the contractor's authorized representative who made the decision;

- (4) The date of the notice;
- (5) The method of distribution of the notice.

(b) If services are approved, the notice shall contain:

- (1) Basis of eligibility;
- (2) Daily/hourly fee, if applicable;
- (3) Duration of the eligibility;
- (4) Names of children approved to receive services;
- (5) Hours of service approved for each day;
- (c) If the services are denied, the notice shall contain:

- (1) The basis of denial; and
- (2) Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decision as stated in the Notice of Action, Application for Services in accordance with procedures specified in Sections 18120 and 18121 of this Division.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18095. Notice of Action, Recipient of Services.

If upon recertification or update of the application, the contractor determines that the need or eligibility requirements are no longer being met, or the fee or amount of service needs to be modified, the contractor shall notify the family through a written Notice of Action, Recipient of Services in accordance with Section 18119 of this Division. The contractor shall maintain copies of all Notices of Action, Recipient of Services in the family's basic data file. The Notice of Action, Recipient of Services shall include:

- (a) The type of action being taken;
- (b) The effective date of the action;
- (c) The name and address of the recipient;
- (d) The name and address of the contractor;
- (e) The name and telephone number of the contractor's authorized representative who is taking the action;
- (f) The date the notice is mailed or given to the recipient;
- (g) The method of distribution to the recipient;
- (h) A description of the action;

- (i) A statement of the reason(s) for the changes;
- (j) A statement of the reason(s) for termination, if applicable; and
- (k) Instructions for the parent(s) on how to request a hearing if they do not agree with the contractor's decisions as stated in the Notice of Action. Recipient of Services in accordance with procedures specified in Sections 18120 and 18121 of this Division. These instructions shall inform parents how to request a hearing from the contractor and, if necessary, from the Child Development Division as described in Sections 18120 and 18121 of this Division.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18096. Calculation of Income.

The contractor shall calculate total countable income based on income information reflecting the family's current and on-going income:

- (a) Using an income calculation worksheet that specifies the frequency and amount of the payroll check stubs provided by the parent and all other sources of income pursuant to section 18078(q).

- (b) When income fluctuates because of:

(1) Agricultural work as referenced in section 18078(j)(1), by averaging income from the 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

(2) Intermittent income as referenced in section 18078(j)(2), by averaging the intermittent income from the preceding 12 months by dividing by 12 and add this amount to the other countable income.

(3) Unpredictable income as referenced in section 18078(j)(3), by averaging the income from at least three consecutive months and no more than 12 months preceding the initial certification, an update of the application, or the recertification that establishes eligibility for services.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

Article 3. Enrollment

§ 18100. Documentation and Determination of Family Size.

(a) A parent shall provide the names of the parents and the names, gender and birthdates of the children identified in the family. This information shall be documented on a confidential application for child care and development services and used to determine family size. The parent shall provide supporting documentation regarding the number of children and parents in the family.

- (1) The number of children shall be documented by providing at least one of the following documents, as applicable:

- (A) Birth certificates;
- (B) Court orders regarding child custody;
- (C) Adoption documents;
- (D) Records of Foster Care placements;
- (E) School or medical records;
- (F) County welfare department records; or

(G) Other reliable documentation indicating the relationship of the child to the parent.

(2) When only one parent has signed the application and the information provided pursuant to subdivision (a)(1) indicates the child(ren) in the family has another parent whose name does not appear on the application, then the presence or absence of that parent shall be documented by providing any one of the following documents, as applicable:

- (A) Records of marriage, divorce, domestic partnership or legal separation;
- (B) Court-ordered child custody arrangements;
- (C) Evidence that the parent signing the application is receiving child support payments from that person, has filed for child support with the

appropriate local agency, or has executed documents with that agency declining to file for child support;

(D) Rental receipts or agreements, contracts, utility bills or other documents for the residence of the family indicating that the parent is the responsible party; or

(E) Any other documentation, excluding a self-declaration except as provided in subdivision (A)(3), to confirm the presence or absence of a parent of a child in the family.

(3) If, due to the recent departure of a parent from the family, the remaining applicant parent cannot provide any documentation pursuant to subdivision (a)(2), the applicant parent may submit a self-declaration signed under penalty of perjury explaining the absence of that parent from the family. Within six months of applying or reporting this change in family size, the parent must provide documentation pursuant to subdivision (a)(2).

(b) If the information provided by the parent is insufficient, the contractor shall request any additional documentation necessary from subdivision (a) above to verify the family composition and family size.

(c) For income eligibility and family fee purposes, when a child and his or her siblings are living in a family that does not include their biological or adoptive parent, only the child and related siblings shall be counted to determine family size. In these cases, the adult(s) must meet a need criterion as specified in Education Code section 8263(a)(2).

(d) Upon the transfer of a family from CalWORKs Stage 1 to CalWORKs Stage 2 or Stage 3, the CalWORKs Stage 2 or Stage 3 contractor shall accept the CalWORKs Stage 1 agency's determination of family size until the family is re-certified.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section heading and section filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

§ 18101. Parents Seeking Employment; Eligibility and Service Limitation. [Renumbered]

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 6-26-91 as an emergency; operative 6-26-91 (Register 91, No. 39). A Certificate of Compliance must be transmitted to OAL by 10-24-91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-24-91 order including deletion of (1) designator and repealer of subsection (a)(2) transmitted to OAL 10-22-91 and filed 11-15-91 (Register 92, No. 7).
4. Renumbering of former section 18101 to new section 18086.5 filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18102. Notice to Families of Their Responsibility to Notify Contractor of Changes to Family Circumstances.

At the time the contractor certifies or recertifies eligibility of a family/child for child care and development services, the contractor shall inform the family of the family's responsibility to notify the contractor within five calendar days of any changes in family income, family size, or the need for services as specified in Education Code section 8263(a)(2).

NOTE: Authority cited: Sections 8261, 8263 and 8265, Education Code. Reference: Sections 8206, 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section and NOTE filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

§ 18103. Recertification.

(a) After initial certification and enrollment, the contractor shall verify need and eligibility and recertify each family/child as follows:

- (1) Families receiving services because the child is at risk of abuse, neglect or exploitation shall be recertified at least once every six (6) months;

(2) Families receiving services because of actual abuse, neglect or exploitation shall be recertified at least every six (6) months and, at the time of recertification, the contractor shall document that the family is participating in a protective services plan in accordance with the requirements of their local county welfare department, child protective services unit to alleviate the circumstances causing the abuse, neglect or exploitation;

(3) All other families shall be recertified at least once each contract period and at intervals not to exceed twelve (12) months;

(b) Contractors shall update the family's application to document continued need and eligibility as specified in Education Code Section 8263(a)(1) and (a)(2) and determine any change to fee assessment, if applicable, as follows:

(1) For migrant and other seasonally employed families, the application shall be updated within thirty (30) days whenever there is a change in family size or need as specified in Section 18083(e) of this Division if need is based on training or incapacity of the parent;

(2) For all other families, the application shall be updated within thirty (30) days whenever there is a change in family size, income, public assistance status or need as specified in Section 18083(e) of this Division;

(3) The requirement for updating the files does not apply to families receiving services because the child is abused, neglected or exploited or at risk of abuse, neglect, or exploitation.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18104. Limited Term Service Leave Requirements.

(a) If the family will temporarily not have a need for subsidized child care and development services as specified in Education Code section 8263(a)(2), the contractor may grant the family a limited term service leave. Reasons for a limited term service leave shall include medical leave and family leave, and may include, but are not limited to, break in employment, school break, the child's visit with the non-custodial parent that is not ordered by the court, or family vacation in excess of best interest days as specified in section 18066(f). Family leave means a leave:

- (1) For the birth and care of the newborn child of the parent,
- (2) For placement with the parent of a child for adoption or foster care, and

(3) To care for the parent's child, spouse, or parent who has a health condition.

(b) If the contractor offers limited term service leaves, the contractor:

- (1) Shall provide equal access to limited term service leaves; and
- (2) May set a limit on the number of leaves to be granted in a contract year based on an assessment of contract resources pursuant to section 18054.

(c) If the contractor grants a limited term service leave:

- (1) The family shall not be disenrolled from the program;
- (2) The service agreement with the parent shall indicate that no services will be provided during the limited term service leave; and
- (3) The contractor shall not report the child as enrolled nor claim reimbursement from the California Department of Education while the child is on a limited term service leave.

(d) A limited term service leave shall not exceed 12 consecutive weeks in duration, except as specified in subdivisions (e) and (f).

(e) A limited term service leave from employment or training shall not exceed 16 consecutive weeks in duration if the leave is for:

- (1) A medical or family leave; or
- (2) A period when the vocational training program is not in spring, fall, or winter sessions.

(f) A limited term service leave may be granted for any portion of the contract period in which a child is attending an After School Education and Safety Program, pursuant to Education Code sections 8482 et seq., or a federal 21st Century Community Learning Centers program, as referenced in Education Code sections 8484.7 et seq.

NOTE: Authority cited: Sections 8261, 8263, 8265 and 8269, Education Code. Reference: Sections 8206, 8261, 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section and NOTE filed 5-28-2008; operative 6-27-2008 (Register 2008, No. 22).

Article 4. Admission Policies and Procedures

§ 18105. Admission Policies and Procedures; Interview.

(a) Contractors shall develop written admission policies and procedures which shall be made available to the public.

(b) The admission procedures established shall conform to requirements in Title 22 California Code of Regulations, Section 101319.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8203 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18106. Admission Priorities; Waiting List; and Displacement.

(a) Within the first priority for services stated in Education Code section 8263(b)(1), children receiving protective services through the local county welfare department shall be enrolled before children identified as at risk of being neglected or abused.

(b) Except for situations where not all of the children in a family are certified based on child protective services, or the child's special need, a family that has a child or children enrolled in a program shall be allowed to enroll additional children provided there exists an appropriate program opening such as infant care or services to school age care children in which to enroll the child.

(c) When not all of the children in a family are certified based on child protective services, or the child's special need, the other children or the parents in the family must meet both eligibility and need criteria as specified in Education Code section 8263(a)(1) and (a)(2) prior to enrollment and shall be admitted in accordance with priorities specified in Education Code section 8263(b).

(d) Contractors shall not deny service to nor assign a lower priority to a family that needs less than full-time services.

(e) Contractors shall maintain a current waiting list in accordance with admission priorities. Contractors may satisfy the requirement for maintaining a waiting list by participating in a county child care centralized eligibility list. Contractors shall contact applicants in order of priority from the waiting list as vacancies occur.

(f) If it is necessary to displace families, families shall be displaced in reverse order of admission priorities.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of subsection (e) filed 4-15-2003; operative 5-15-2003 (Register 2003, No. 16).
3. Amendment of subsections (b) and (c) and amendment of NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.

4. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
5. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18107. Residency Requirements.

(a) In addition to other applicable eligibility requirements as specified elsewhere in this Division, to be eligible for child care and development services the child must live in the State of California while services are being received.

(b) Any evidence of a street address or post office address in California will be sufficient to establish residency. A person identified as homeless pursuant to section 18078(h)(2) is exempted from this requirement and shall submit a declaration of intent to reside in California.

(c) The governing board of any school district, community college or county superintendent of schools may accommodate children residing outside its district boundaries in accordance with Education Code section 8322(a).

(d) The determination of eligibility for child care and development services shall be without regard to the immigration status of the child or the child's parent(s), unless the child or the child's parent(s) are under a final order of deportation from the United States Department of Justice.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 8-16-2007; operative 9-15-2007 (Register 2007, No. 33).

[The next page is 184.69.]

Article 5. Parent Fees

§ 18108. Fee Schedule.

Contractors shall use a fee schedule prepared and issued by the Child Development Division.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18109. Fee Assessment; Explanation to Parents.

(a) The contractor shall utilize the following factors in determining the fee to be assessed for each family:

- (1) The adjusted monthly family income;
- (2) Family size; families having fewer than three (3) members shall be regarded as a family of three (3).
- (3) The fee shall be assessed and collected based on the family's child who is enrolled for the longest period.
- (4) The fee assessed and collected shall be either the fee indicated on the fee schedule, the actual costs of services or the contract maximum daily/hourly rate, whichever is least.
- (5) No adjustment shall be made for excused or unexcused absences.
- (6) The fee shall be the full portion of the family's cost for services.

(b) The contractor shall maintain a record of each family's fee assessment, the effective date(s) of each fee increase or decrease, the dates and amounts of fees collected and any amounts which are delinquent.

(c) The contractor shall explain to the parent(s) the contractor's policies regarding fee assessment and collection and the possible consequences for delinquent payment of fees.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. New subsection (d) and amendment of NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).
4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18110. Exceptions to Fee Assessment.

No fees shall be collected from the following types of families whose children are enrolled:

- (a) Because of a need for child protective services;
- (b) In the State Preschool Program;
- (c) In the Federal Based Migrant program;
- (d) In the Severely Handicapped program; or
- (e) With an income level that, in relation to family size, is less than the first entry in the fee schedule.

NOTE: Authority cited: Sections 8250 and 8263, Education Code. Reference: Sections 8250 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of section and NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to emergency amendment filed 10-14-2005 by operation of Government Code section 11346.1(f). Certificate of Compliance as to 5-6-2005 order transmitted to OAL 9-2-2005; disapproved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).

proved by OAL and order of repeal as to 5-6-2005 order filed on 10-14-2005 (Register 2005, No. 41).

4. Amendment filed 10-14-2005 as an emergency; operative 10-14-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-13-2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 10-14-2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 20).

§ 18111. No Additional Payments or Costs; Refunds; Exceptions.

(a) Except as provided in Subsection (b) below, neither a contractor nor a provider of services shall require or solicit, in cash or in kind, additional payments from the recipients of service. The prohibition includes activities or services that would increase the family's cost of participation including meals, recreation and field trips. If additional payments are made or additional costs are incurred by the family, the contractor shall refund to the parent(s) the amount of payments made or costs incurred.

(b) A contractor or a provider of service need not make a refund as specified in Subsection (a) above under the following conditions:

(1) The family is enrolled in an Alternative Payment program and the parent(s) has voluntarily placed the child with a service provider that requires all parent(s) to provide a sack lunch or supplies such as diapers.

(2) School Age Community Child Care programs may require all parents to provide a sack lunch. The contractor shall provide a meal if the parent does not provide a sack lunch. A contractor that requires parents to provide sack lunches may develop a policy which includes reasonable penalties for parents who fail to provide a sack lunch.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18112. Credit for Fees Paid to Other Service Providers.

This section shall apply to child care and development services provided by someone other than the contractor:

(a) When a contractor cannot meet all of a family's needs for child care for which eligibility and need as specified in Education Code Section 8263(a)(1) and (a)(2) have been established, the contractor shall grant a fee credit equal to the amount paid to the other provider(s) of these child care and development services.

(b) The contractor shall apply the fee credit to the family's subsequent fee billing period. The family shall not be allowed to carry over the fee credit beyond the family's subsequent fee billing period.

(c) The contractor shall obtain copies of receipts or cancelled checks for the other child care and development services from the parent. The copies of the receipts or cancelled checks shall be maintained in the contractor's fee assessment records.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18113. Receipt for Payment of Fee; Retention of Copy for Records.

(a) The contractor or service provider shall provide an original copy of a pre-numbered receipt to each person who pays a fee. The receipt shall show the amount paid, the date of payment, the rate of payment and the period of service purchased.

(b) The contractor shall retain a copy of the receipt in its fee assessment records.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18114. Advance Payment of Fees; Delinquent Fees; Notice of Delinquency.

(a) Contractors shall adopt a policy for the collection of fees in advance of providing services. The written policy shall be provided to families at the time of initial enrollment into the program.

(b) For contractors providing direct services to children, fees shall be considered delinquent after seven (7) calendar days from the date the fees were due.

(c) For contractors providing services through Alternative Payment programs, fees shall be considered delinquent on the date they are notified by the provider that fees have not been paid.

(d) A Notice of Action, Recipient of Services shall be used to inform the family of the following:

(1) The total amount of unpaid fees;

(2) The fee rate;

(3) The period of delinquency; and

(4) That services shall be terminated two (2) weeks from the date of the Notice unless all delinquent fees are paid before the end of the two (2)-week period.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18115. Plan for Payment of Delinquent Fees.

The contractor shall accept a reasonable plan from the parent(s) for payment of delinquent fees. The contractor shall continue to provide services to the child, provided the parent(s) pays current fees when due and complies with the provisions of the repayment plan.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18116. Consequences of Nonpayment of Delinquent Fees.

Upon termination of services for nonpayment of delinquent fees, the family shall be ineligible for child care and development services until all delinquent fees are paid.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8263 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18117. Confidentiality of Records.

(a) The use or disclosure of all information pertaining to the child and his/her family shall be restricted to purposes directly connected with the administration of the program.

(b) The contractor shall permit the review of the basic data file by the child's parent(s) or parent's authorized representative, upon request and at reasonable times and places.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 6. Due Process Requirements

§ 18118. Approval or Denial of Child Care and Development Services.

The contractor shall mail or deliver a completed Notice of Action, Application for Services to the parents within thirty (30) calendar days from the date the application is signed by the parent(s) in accordance with Sections 18094 and 18095 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18119. Changes Affecting Service.

(a) The contractor shall complete a Notice of Action, Recipient of Services when changes are made to the service agreement. Such changes may include, but are not limited to, an increase or decrease in parent fees, an increase or decrease in the amount of services, or termination of service.

(b) The contractor shall mail or deliver the notice of action to the parents at least fourteen (14) calendar days before the effective date of the intended action whenever:

(1) The contractor has factual information that confirms the death of the parent or the child;

(2) The contractor receives notification from the parent that the parent no longer wants the service;

(3) The agreement for services was a limited term authorization which has come to the end of the term, and at the time of approval of the limited term authorization, the parent was informed in writing of the date services would terminate; or

(4) The parent does not provide eligibility or need information after a written request by the contractor.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8261 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18120. Clients Request for a Hearing; Rules and Procedures.

(a) If the parent disagrees with an action, the parent(s) may file a request for a hearing with the contractor within fourteen (14) calendar days of the date the Notice of Action was received.

(b) Upon the filing of a request for hearing, the intended action shall be suspended until the review process has been completed. The review process is complete when the appeal process has been exhausted or when the parent(s) abandons the appeal process.

(c) Within ten (10) calendar days following the receipt of the request for a hearing, the contractor shall notify the parent(s) of the time and place of the hearing. The time and place of the hearing shall, to the extent possible, be convenient for the parent(s).

(d) The hearing shall be conducted by an administrative staff person who shall be referred to as "the hearing officer." The hearing officer shall

be at a staff level higher in authority than the staff person who made the contested decision.

(e) The parent(s) or parent's authorized representative is required to attend the hearing. If the parent or the parent's authorized representative fails to appear at the hearing, the parent will be deemed to have abandoned his or her appeal.

(f) Only persons directly affected by the hearing shall be allowed to attend.

(g) The contractor shall arrange for the presence of an interpreter at the hearing, if one is requested by the parent(s).

(h) The hearing officer shall explain to the parent(s) the legal, regulatory, or policy basis for the intended action.

(i) During the hearing, the parent(s) shall have an opportunity to explain the reason(s) they believe the contractor's decision was incorrect. The contractor's staff shall present any material facts omitted by the parent(s).

(j) The hearing officer shall mail or deliver to the parent(s) a written decision within ten (10) calendar days after the hearing.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18121. Appeal Procedure for Child Development Division Review.

(a) If the parent disagrees with the written decision from the contractor, the parent has fourteen (14) calendar days in which to appeal to the Child Development Division.

(b) If the parent(s) do(es) not submit an appeal request to the Child Development Division within fourteen (14) calendar days, the parents' appeal process shall be deemed abandoned and the contractor may implement the intended action.

(c) The parent(s) shall specify in the appeal request the reason(s) why he/she believes the contractor's decision was incorrect.

(d) A copy of the contractor's notice of intended action and written decision shall be submitted by the parent(s) with the appeal request.

(e) Upon receipt of an appeal request, the Child Development Division may request copies of the basic data file and other relevant materials from the contractor. The Child Development Division may also conduct any investigations, interviews or mediation necessary to resolve the appeal.

(f) The decision of the Child Development Division shall be mailed or delivered to the parent(s) and to the contractor within thirty (30) calendar days after receipt of the appeal request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18122. Contractor Compliance with Child Development Division Decision; Reimbursement for Services During the Appeal Process.

(a) The contractor shall comply with the decision of the Child Development Division immediately upon receipt thereof.

(b) The contractor shall be reimbursed for child care and development services delivered to the family which is appealing during the appeal process.

(c) If a contractor's determination that a family is ineligible is upheld by the Child Development Division, services to the family shall cease upon receipt of the Child Development Division's decision by the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

Subchapter 4. State Preschool Program

Article 1. Scope of Chapter

§ 18130. Scope of Chapter: Applicable Regulations.

(a) The regulations contained in this Chapter shall apply only to contractors funded for the State Preschool Program.

(b) Except as otherwise provided in this Chapter, contractors funded for the State Preschool program shall also comply with regulations contained in Chapters 1, 2, 12, 14 and 15 in whole, and Sections 18077, 18078 (a)(d)(h)(1), 18081 (a)(b)(1), 18082, 18083 (a)(b)(h)(i)(j), 18084, 18094, 18095, 18100, 18105, 18107, 18117 and 18118 through 18122 of Chapter 3 and Section 18290(c)(e) of Chapter 13 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8235, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For history of former Chapter 4 (Sections 18201–18208), see Register 79, No. 16.

2. Editorial correction of subsection (b) (Register 95, No. 9).

Article 2. Enrollment Priorities

§ 18131. Enrollment Priorities for State Preschool Programs.

(a) The first priority for services shall be given to eligible children whose families have the lowest adjusted monthly income at the time of enrollment not to exceed the most recent schedule of income ceilings issued by the Child Development Division.

(b) Thereafter, the contractor may establish the following priorities in an order determined by the contractor:

(1) Children who are identified as limited English or non-English proficient.

(2) Children with exceptional needs and whose Individualized Education Plan (IEP) as described in Section 56026 of the Education Code and Sections 3030 and 3031 of Title 5 California Code of Regulations, identifies a State Preschool program as being an appropriate placement during all or part of the state preschool day as defined in Section 18136 of this Division.

(3) Children from families whose special circumstances may diminish the children's opportunities for normal development.

(4) Children who range in age from three years–nine months to four years–nine months.

(5) Within these additional priorities, families with the lowest adjusted monthly income shall be admitted first.

(c) The basic data file shall include documentation to support the determination that the child meets the priority for service. If the priority for service is the child's exceptional need, the basic data file shall include documentation as specified in Section 18089(f) of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8235, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18132. Certification of Eligibility; Waiting List.

(a) The contractor shall certify eligibility no more than thirty (30) calendar days prior to the first day of the beginning of the new preschool year.

(b) After full enrollment is attained, the contractor shall prepare a waiting list based on the enrollment priorities set forth in Section 18131 of this Division.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8235 and 8263, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18133. Exceptions to Enrollment Priorities; Ten Percent (10%) Limitation.

(a) If no eligible children are on the waiting list, the contractor may enroll children who are not otherwise eligible for participation. This includes children who exceed the age limitations and children from families whose income exceeds the current income ceiling issued by the Child Development Division by fifteen percent (15%) or less of the adjusted monthly income for income eligible families of the same size.

(b) Children enrolled pursuant to subsection (a) above shall comprise a maximum of ten percent (10%) of the total enrollment.

(c) The contractor shall maintain the following information in the basic data file of children enrolled pursuant to this section:

(1) Evidence that shows the contractor has made a diligent search for eligible children;

(2) The child's family income; and

(3) The specific reason(s) for enrolling each child.

(d) To the greatest extent possible, the contractor shall assign children enrolled pursuant to this section to all of the State Preschool program classes within the contractor's jurisdiction.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8235 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18134. Exceptions to Calculation of Adjusted Monthly Income (as Defined in Section 18078) for Military Personnel.

Program vacancies shall be filled first by children pursuant to all statutorily mandated priorities. For programs located on or in close proximity to a military base or base housing, for purposes of determining eligibility and income ranking for families when an individual counted in the family size is on federal active duty, state active duty, active duty for special work, or Active Guard and Reserve duty in the military, and the families reside on a military base or in military housing, the contractor may, with prior written approval from the State Superintendent of Public Instruction or his or her designee, exclude the amount of the basic allowance for housing provided to the individual pursuant to 37 USC 403.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8235, 8236, 8263 and 8263.1, Education Code.

HISTORY

1. New section filed 11-5-2007 as an emergency; operative 11-5-2007 (Register 2007, No. 45). A Certificate of Compliance must be transmitted to OAL by 5-5-2008 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 11-5-2007 order, including amendment of section, transmitted to OAL 3-11-2008 and filed 4-21-2008 (Register 2008, No. 17).

Article 3. Other Requirements

§ 18135. Volunteers; Staffing Ratios.

If the contractor cannot recruit a sufficient number of parents or volunteers, the contractor shall hire teacher aides for each class to the extent required to meet adult/child ratios as set forth in Section 18290 of this Division.

NOTE: Authority cited: Section 8287, Education Code. Reference: Sections 8235 and 8288, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18136. Minimum Hours and Days of Operation.

The contractor shall operate classes a minimum of three (3) hours per day, excluding home-to-school transportation time, for a minimum of 175 days per year, unless the child development contract specified a lower minimum days of operation.

NOTE: Authority cited: Sections 8261, Education Code. Reference: Sections 8235 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Subchapter 5. School-Age Parenting and Infant Development Programs*

(Originally filed 5-21-75)

* Regulations contained in Division 19, Chapter 3 prior to filing of 4-23-79.

Article 1. General Provisions

§ 18140. Definitions.

NOTE: Authority cited for Subchapter 5: Sections 8391 and 33031, Education Code.

HISTORY

1. Repealer of Chapter 2 (Sections 18100-18139, not consecutive) filed 4-23-79; effective thirtieth day thereafter (Register 79, No. 16). Regulations concerning similar subject matter contained in Title 5, Division 3, Chapter 5, Subchapter 5.4. For history of former Chapter 2, see Registers 69, No. 51; 73, No. 40; 75, No. 39; and 77, No. 39.
2. Renumbering from Chapter 3 (Sections 18140-18174) to Chapter 2 (Sections 18140-18174) filed 4-23-79; effective thirtieth day thereafter (Register 79, No. 16). For history of former Chapter 3, see Registers 75, No. 21; and 77, No. 39.
3. Renumbering of former Chapter 2 (Sections 18140-18174) to Chapter 5 (Sections 18140-18174) filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
4. Editorial correction of Authority cite (Register 95, No. 9).
5. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18141. Agencies Who May Operate This Program.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18142. Services Which Shall Be Provided.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18143. Location of the Program.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18144. Eligibility for School-Age Parenting and Infant Development Program.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18145. Priority for Service.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18146. Advisory Council Component.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18147. Composition of Advisory Council.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18148. Minimum Number of Meetings.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18149. Records of Council Meetings.

HISTORY

1. Change without regulatory effect repealing section filed 11-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18150. Admission Policies and Procedures.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18151. Confidentiality of Record.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18152. Parent Fee.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18153. Compliance Reviews.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18154. Compliance Review Worksheet.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

[The next page is 184.73.]

§ 18155. Quality Evaluation.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18156. Compliance Review Process.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18157. Adequacy of Program Components.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18158. Evaluation Requirements.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18159. Application Procedure.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18160. Renewal of Current Operating Programs.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 2. Fiscal Provisions**§ 18161. Funding.**

HISTORY

1. Amendment of subsection (b) filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18162. Method of Reimbursement.

HISTORY

1. Renumbering of Section 1862 to Section 18162 filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
2. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18163. Attendance Factor.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18164. Claim for Reimbursement.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18165. Budget Procedures.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 3. Educational Provisions**§ 18166. Program Components for School-Age Parents and Other Participating Students.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18167. Educational Stimulation Component.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 4. Personnel Provisions**§ 18168. Personnel and Their Duties with Infants and Toddlers.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 5. Structural and Safety Provisions**§ 18169. Standards for Building and Ground.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 6. Health Provisions**§ 18170. Health Services Component.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 7. Nutrition Provisions**§ 18171. Nutritional Component.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Article 8. Social Services Provisions**§ 18172. Social Services Requirement.**

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18173. Social Services Contracts.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

§ 18174. Social Services Components.

HISTORY

1. Change without regulatory effect repealing section filed 11–5–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 45).

Subchapter 6. Campus Child Care Program**§ 18175. Applicable Regulations.**

Except as provided in Education Code Section 8225(b), contractors funded by the Campus Child Care Program shall also comply with the regulations set forth in Chapters 1, 2, 3, 12, 13, 14 and 15 of this Division. NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8225 and 8263, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

Subchapter 7. Federal Based Migrant Program

Article 1. Scope of Chapter

§ 18180. Scope of Chapter: Applicable Regulations.

(a) The regulations contained in this Chapter shall apply only to contractors funded through the Federal Based Migrant program.

(b) Except as otherwise provided in this Chapter, contractors funded by the Federal Based Migrant program shall also comply with regulations contained in Chapters 1, 2, 12, 13, 14 and 15 in whole and Sections 18077, 18078(d), 18081 (a) (b) (c) and (d), 18093, 18094, 18095, 18103, 18105, 18110, 18117, 18118, 18119, 18120, 18121 and 18122 of Chapter 3 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8233 and 8261, Education Code; 34 Code of Federal Regulations, Part 201; and 20 United States Code, Parts 2761, 2762, 2763.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 2. Eligibility and Enrollment Priorities

§ 18181. Definitions.

Definitions contained in 34 Code of Federal Regulations Section 201.3 apply.

NOTE: Authority cited: Section 8261, Education Code. Reference: 34 Code of Federal Regulations, Section 201.3.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18182. Enrollment Priorities.

(a) The following are the enrollment priorities for the Federal Based Migrant program:

- (1) First Priority: Currently migratory child.
- (2) Second Priority: Formerly migratory child.

(b) A newborn infant whose family's residence has not changed since birth is not considered to be a currently migratory child.

(c) Contractors operating in a federally funded public migrant housing center shall reserve the first fourteen (14) days of their initial enrollment period for residents of the public housing center.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8231, Education Code; and 34 Code of Federal Regulations Part 201.31.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18183. Eligibility Certification for Federal Based Migrant Programs.

Federal eligibility shall be determined before the child is enrolled or served in the program.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8263, Education Code; and 34 Code of Federal Regulations Part 201.30.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18184. Migrant Student Record Transfer System.

The contractor shall register all children enrolled on the Migrant Student Record Transfer System (MSRTS).

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8231, Education Code; and 34 Code of Federal Regulations, Part 201.32.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Subchapter 7.5. State Based Migrant Program

Article 1. Scope of Chapter

§ 18190. Scope of Chapter: Applicable Regulations.

(a) The regulations contained in this Chapter shall apply only to contractors funded by the State Based Migrant program.

(b) Except as otherwise provided in this Chapter, contractors funded by the State Based Migrant program shall also comply with regulations contained in Chapters 1, 2, 12, 13, 14, 15 in whole and Chapter 3, except for Section 18106, of this Division.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8231, 8232, 8233 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 2. Eligibility and Enrollment Priorities

§ 18191. Eligibility Criteria.

In addition to meeting the criteria for being an agricultural worker family as specified in Education Code Section 8231(a), the family shall also meet eligibility and need criteria specified in Education Code Section 8263(a)(1) and (a) (2).

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8231 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18192. Priorities for Enrollment; Waiting List; Displacement Order.

(a) Children of eligible migrant agricultural worker families shall be enrolled in the order of priorities specified in Education Code Section 8231(b).

(b) Contractors operating in federally funded public migrant housing centers shall reserve the first fourteen (14) days of their enrollment period for residents of the public migrant housing center.

(c) The contractor shall maintain a waiting list in accordance with the enrollment priorities specified in Education Code Section 8231(b).

(d) If it is necessary to displace families, families shall be displaced in reverse order of enrollment priorities.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8231 and 8263, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Subchapter 8. School Age Community Child Care Services Program (Latch Key)

Article 1. Scope of Chapter

§ 18200. Scope of Chapter: Applicable Regulations.

Except as otherwise provided in this Chapter, contractors funded by the School Age Community Child Care Services program (Latchkey) shall also comply with the regulations contained in Chapters 1, 2, 12 and 15 in whole, and Chapter 3 except for Section 18106 and Section 18290(d)(e) of Chapter 13 of this Division. Contractors operating a School Age Community Child Care Services-Alternative Payment program shall also comply with Chapter 10 of this Division.

NOTE: Authority cited: Section 8461, Education Code. Reference: Section 8463, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

Article 2. General Provisions

§ 18201. Waiting List; Priorities for Enrollment.

(a) The contractor shall maintain a waiting list of families seeking entry into the program in accordance with the enrollment priorities set forth in Education Code Section 8468.5.

(b) As vacancies occur in the program, families shall be enrolled in the order of priority established on the waiting list.

(c) When displacement from services is required either temporarily or permanently, families shall be displaced in the reverse order of the priorities set forth in paragraph (a) of this section.

NOTE: Authority cited: Section 8461, Education Code. Reference: Section 8468.5, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18202. Age Limitation.

(a) Only school age children are eligible to be enrolled in School Age Community Child Care program.

(b) "School age" means children enrolled in kindergarten through 9th grade.

(c) A child is considered to be enrolled in kindergarten on June 1 of each year if he or she will be four years nine months of age by September 1 of the same year.

NOTE: Authority cited: Section 8461, Education Code. Reference: Section 8468.5, Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18203. Staff Qualifications—Program Director for School Age Programs.

(a) The contractor shall employ a program director who has overall administrative responsibility for programs operated at one or more sites.

(b) The program director may also serve as a site supervisor at one of the sites if he/she assumes responsibility for the day-to-day operation of the program at that site.

(c) The program director shall meet the requirements of either Subsection (c)(1)(A)(B) or (c)(2)(A)(B)(C)(D)(E) below:

(1) A baccalaureate degree in recreation, recreational therapy, special education or a related field; and

(A) Three (3) semester units of administration and supervision of recreation, child development or related programs; and

(B) Two (2) years of teaching or supervisory experience in recreation or related programs; or

(2) Hold one of the following valid permits or credentials issued by the Commission on Teacher Credentialing:

(A) Children's Center Supervision Permit;

(B) Life Children's Center Supervision Permit;

(C) Preliminary Administrative Services Credential;

(D) Professional Administrative Services Credential; or

(E) Be deemed to hold a permit pursuant to Education Code Section 8360 and have three (3) semester units of administration and supervision of child development programs.

NOTE: Authority cited: Sections 8287 and 8461, Education Code. Reference: Section 8463(l), Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18204. Adult/Child Ratios in Group Child Development Programs.

HISTORY

1. Repealer filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18205. Staff Qualifications—Site Supervisor.

Each site shall have a site supervisor who meets the requirements specified in Title 22 California Code of Regulations, Division 12, Chapters 1 and 2, Sections 101215, 101315 and 101515.

NOTE: Authority cited: Sections 8287 and 8461, Education Code. Reference: Section 8463(l), Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18206. Staff Qualifications—Teacher.

Each contractor shall employ sufficient numbers of qualified teachers to meet the requirements specified in Title 22 California Code of Regulations, Chapters 1 and 2, Sections 101216, 101316.2 and 101516.2.

NOTE: Authority cited: Sections 8287 and 8461, Education Code. Reference: Section 8463(l), Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18207. Staff Qualifications—Teacher Aide.

Each contractor shall employ sufficient numbers of teacher aides to meet the requirements specified in Title 22 California Code of Regulations, Chapter 1 and 2, Sections 101216 and 101316.3.

NOTE: Authority cited: Sections 8287 and 8461, Education Code. Reference: Section 8463(l), Education Code.

HISTORY

1. Repealer and new section filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

§ 18208. Ratios Based on Average Attendance.

HISTORY

1. Repealer filed 11–21–88; operative 1–1–89 (Register 88, No. 50). For prior history, see Register 79, No. 16.

Subchapter 9. Severely Handicapped Program

§ 18210. Scope of Chapter: Applicable Regulations.

(a) The regulations contained in this Chapter shall only apply to contractors funded through the Severely Handicapped program.

(b) Except as otherwise provided in this Chapter contractors funded by the Severely Handicapped program shall also comply with regulations contained in Chapters 1, 2, 12, 14, 15 in whole and Sections 18077, 18078 (h), 18081 (a) (b) (5) (c) (d), 18082, 18083 (a) (b) (c) (h) (i) (j), 18094, 18095, 18105, 18107, 18110 and 18117 through 18122 of Chapter 3 and Sections 18290 and 18291 of Chapter 13 of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208, 8250 and 56026, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18211. Eligibility.

In order to be eligible for services through the Severely Handicapped program, the child must have a physical, mental or emotional handicap of such severity that the child cannot be adequately or appropriately served in regular child care and development program as determined by the individualized Education Plan (IEP) required by Section 18212 of this Division.

NOTE: Authority cited: Sections 8261, Education Code. Reference: Section 8250, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18212. Additional Basic Data File Requirements.

The child's basic data file shall include an Individualized Education Plan (IEP) as specified in Section 56026 of the Education Code and Sections 3030 and 3031 of Title 5 California Code of Regulations.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8250, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18213. Minimum Hours of Operation.

The contractor shall provide child development services a minimum of three and a half (3 1/2) hours per day.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8250, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50) .18220.
Scope of chapter: Applicable Regulations.

Subchapter 10. Alternative Payment Program

Article 1. Scope of Subchapter

§ 18220. Scope of Subchapter: Applicable Regulations.

(a) The regulations contained in this subchapter shall only apply to contractors authorized to establish, maintain, or operate Alternative Payment programs as defined in section 18013(e) of this chapter.

(b) Except as otherwise provided in this chapter, contractors funded to provide Alternative Payment program services shall also comply with regulations contained in subchapters 1, 2, 3, and 15 in whole and sections 18271(a), (c), 18274, 18277 and 18279 of subchapter 12 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Editorial correction of printing error restoring subchapter 10 and article 1 headings (Register 91, No. 29).
3. Amendment of article heading, section heading and section filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–6–2005 order transmitted to OAL 8–30–2005 and filed 10–11–2005 (Register 2005, No. 41).

Article 1.5. General Provisions

§ 18220.2. Definitions.

(a) “Probation” means the period of time that a licensed child care facility is required to comply with specific terms and conditions set forth by the California Department of Social Services in order to stay or postpone revocation of the facility’s license.

(b) “Revocation” means an administrative action taken by the California Department of Social Services to void or rescind the license of a child care facility because of serious or chronic violations of licensing laws or regulations by the facility.

(c) “Temporary suspension” means an administrative action taken by the California Department of Social Services that immediately suspends a facility license.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8212, Education Code; and Sections 1596.773, 1596.885 and 1596.886, Health and Safety Code.

HISTORY

1. New article 1.5 (section 18220.2) and section filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–6–2005 order, including amendment of subsections (a) and (b), transmitted to OAL 8–30–2005 and filed 10–11–2005 (Register 2005, No. 41).

Article 2. Policies and Procedures

§ 18220.6. Provider Rate. Family Co–Payment.

(a) A family may choose a child care provider regardless of the provider’s rate.

(b) When a provider’s rate and other allowable charges exceed the maximum subsidy amount, the family shall be responsible for paying the provider the difference between the provider’s rate and the maximum subsidy amount. This shall be considered the family’s co–payment. The contractor shall not be responsible for collecting the family’s co–payment.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8265 and 8269, Education Code.

HISTORY

1. New section filed 6–8–2004; operative 6–8–2004 (Register 2004, No. 24).

§ 18221. Information on Contractor Policies.

The contractor shall develop and implement a written policy statement. The policy statement shall include information regarding:

(a) A description of the program’s purpose, design, and organization framework;

(b) Priorities for enrollment;

(c) Family eligibility requirements;

(d) Conditions for participation;

(e) Reimbursement of providers which may include a limitation of 1.5 standard deviations from the mean market rate for the type of care provided as established by the most recent survey of the local resource and referral agency;

(f) Requirements for provider participation;

(g) Range of services available including limitations, if any, on payment for in–home care; and

(h) Parent fee collection policy and procedures including direct payment of fees to the provider, if allowable.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Editorial correction of printing error restoring article 2 heading (Register 91, No. 29).

§ 18222. Information to Be Given to Parents.

(a) The contractor shall provide parents with the following information upon enrollment in the program:

(1) The policy statement specified in Section 18221 of this Division;

(2) Information regarding the confidentiality of records;

(3) Information regarding grievance procedures for parents; and

(4) Information regarding the rights of parents to change child care settings.

(b) If the parent(s) speaks a language other than English or is (are) hearing impaired, the information shall be provided through written materials or by Presentation of an interpreter in a language the parent understands.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18223. Procedures for Provider Participation.

The contractor shall develop and implement written policies and procedures for provider participation which include the following:

(a) Maximizing parental choice with consideration of the contractor’s ability to pay for the services within the funding provided in the annual child development contract.

(b) Acceptance, rejection and termination of provider affiliation with the program.

(c) Grievance procedures for parents and providers in the program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18224. Written Materials to Be Given to Providers.

(a) The contractor shall give to all providers the following information:

(1) A copy of the contractor’s policy statements as specified in Sections 18221 (e), (f) and (h), 18223 and 18226 of this Division;

(2) A statement prohibiting the provider from engaging in religious instruction or worship while providing child care and development services;

(3) A statement prohibiting the provider from engaging in any form of discrimination;

(4) A schedule for the payment of services which shall be signed by the provider; and

(5) Instructions on enrollment and attendance recordkeeping requirements.

(b) If a provider speaks a language other than English or is hearing impaired, the information shall be provided either through written materials or by presentation of an interpreter in the language that the provider understands.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 2.5. Receipt of Notification of Temporary Suspension Order, License Revocation, or Probation. Notification of Parents and Facilities

§ 18224.2. Receipt of Notification of Temporary Suspension or License Revocation from Resource and Referral Program. Notification of Parents and Facilities.

(a) When an Alternative Payment program is notified by the Resource and Referral program that a licensed child care facility's license has been temporarily suspended or revoked, the Alternative Payment program shall do the following within two business days of receiving the notification:

(1) Terminate payment to the licensed child care facility for services provided as of the effective date of the temporary suspension or license revocation. The facility will be reimbursed for services provided prior to that date;

(2) Notify the licensed child care facility and the parents funded by the Alternative Payment program and enrolled in the facility in writing that the payment has been terminated and the reason for the termination; and

(b) To extent feasible, the Alternative Payment program shall provide the notice to the parent in the primary language of the parent.

(c) The Alternative Payment program shall document action taken pursuant to subdivisions (1) and (2) above. The Alternative Payment program shall retain the documentation and make it available to the California Department of Education upon request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8220, Education Code; and Sections 1596.773 and 1596.886, Health and Safety Code.

HISTORY

1. New article 2.5 (sections 18224.2-18224.4) and section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-6-2005 order, including amendment of article heading, section heading and section, transmitted to OAL 8-30-2005 and filed 10-11-2005 (Register 2005, No. 41).

§ 18224.4. Receipt of Notification of Probationary Status of Facility from Resource and Referral Program. Notification of Parents and Facilities.

(a) The regulations contained in this Subchapter apply to providers already on probation as of January 1, 2005, and to providers that are placed on probation on or after January 1, 2005.

(b) When an Alternative Payment program is notified by the Resource and Referral program that a facility has been placed on probation, the Alternative Payment program shall provide, within two business days, writ-

ten notice to the parents funded by the Alternative Payment program and enrolled in the facility that the facility has been placed on probation and that the parents have an option to make different child care arrangements or may remain with the facility without risk of subsidy payments being terminated.

(c) To extent feasible, the Alternative Payment program shall provide the notice to the parent in the primary language of the parent.

(d) The Alternative Payment program shall document notification provided pursuant to subdivision (b) above. The Alternative Payment program shall retain the documentation and make it available to the California Department of Education upon request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8212, Education Code; and Section 1596.773, Health and Safety Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-6-2005 order, including amendment of section heading and section, transmitted to OAL 8-30-2005 and filed 10-11-2005 (Register 2005, No. 41).

Article 3. Services and Payments

§ 18225. Plan for Continuity of Service and Expenditures.

The contractor shall develop and implement a plan to ensure that services are provided to families enrolled in the program continuously throughout the contract period.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring article 3 heading (Register 91, No. 29).

§ 18226. Plan for Provider Payments.

The contractor shall develop and implement a plan for timely payment to providers. The plan shall include a description of parent fee collection methods in accordance with the policy required by Section 18221 (h) of this Division.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18228. Offset of Parent Fees Paid to Providers.

(a) If the contractor's policy allows parents to make direct payments of their fees to the provider, the provider shall submit a copy of the parent's receipt to the contractor.

(b) The contractor shall offset the amount of the fee paid by the parent in calculating the payment due to the provider.

(c) The contractor shall report the amount of fee collected and retained by the provider as "income" on the attendance and expenditure reports as specified in Section 18068 of this Division.

(d) The contractor shall report its payment to the provider along with the amount of fees paid directly by the parent which serve in lieu of payment from the contractor to the provider as "expense" on the attendance and expenditure reports as specified in Section 18068 of this Division.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8261 and 8265, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18229. Basic Data File; Receipt of Supportive Services.

The documents required by Education Code Section 8266.5 shall be maintained in the family's basic data file.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8266.5, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Article 4. Records

§ 18230. Records on File Concerning In-Home Service Providers.

If the contractor's policies allow payment for in-home care, the contractor shall maintain in its file the following records concerning in-home care providers:

- (a) A description of the caregiver's qualifications and work experience obtained during a personal interview with the care-giver.
- (b) A declaration by the care giver that he or she is in good health.
- (c) A signed statement from the parent verifying that the parent has interviewed and approved of the caregiver.
- (d) A California driver's license number or other valid and recognized form of identification to verify that the caregiver is at least eighteen (18) years of age.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring article 4 heading (Register 91, No. 29).

§ 18231. Records on File Concerning Service Providers.

The contractor shall maintain in its files the following records concerning each service provider:

- (a) A statement of the service provider's current fees with information regarding the provider's usual and customary services provided for those fees;
- (b) A statement signed by the provider that the child care and development services being provided do not include religious instruction or worship;
- (c) A document that contains the rate and schedule of payment for approved services that is signed by both the service provider and the contractor;
- (d) A copy of the facility license that shows the authorized capacity of the facility;
- (e) The name, address and telephone number of the service provider; and
- (f) The age group(s) served by the provider.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8266.5, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Subchapter 11. Resource and Referral Program

Article 1. Scope of Subchapter

§ 18240. Scope of Subchapter: Applicable Regulations.

- (a) The regulations contained in this subchapter shall apply only to contractors funded to provide Resource and Referral Program services.
- (b) Except as otherwise provided in this chapter, contractors funded to provide Resource and Referral Program services shall also comply with regulations contained in subchapters 1, 2, and 15 in whole and sections 18271(a), (c), 18274, 18277 and 18279 of subchapter 12 of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212, 8213 and 8226, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring subchapter 11 and article 1 headings (Register 91, No. 29).

3. Amendment of article heading, section heading, section and NOTE filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-6-2005 order transmitted to OAL 8-30-2005 and filed 10-11-2005 (Register 2005, No. 41).

§ 18240.5. Definitions.

(a) "Probation" means the period of time that a licensed child care facility is required to comply with specific terms and conditions set forth by the California Department of Social Services in order to stay or postpone revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the California Department of Social Services to void or rescind the license of a child care facility because of serious or chronic violations of licensing laws or regulations by the facility.

(c) "Temporary suspension" means an administrative action taken by the California Department of Social Services that immediately suspends a facility license.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8226, Education Code; and Sections 1596.773, 1596.885 and 1596.886, Health and Safety Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-6-2005 order, including amendment of subsection (c), transmitted to OAL 8-30-2005 and filed 10-11-2005 (Register 2005, No. 41).

Article 2. Resource and Referral Service

§ 18241. Service Area.

(a) The contractor shall identify in its application for funding the specific geographical area in which the contractor proposes to operate referral services.

(b) The proposed service area shall be approved by the Child Development Division.

(c) The contractor shall not provide resource and referral services outside of its approved service area.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8212, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring article 2 heading (Register 91, No. 29).

§ 18242. No Fees Charged for Referral Services.

The contractor shall not charge a fee for resource and referral services funded by the State Department of Education except for the recovery of printing and duplication costs, the costs of damaged or lost materials from the lending library or late fees. This does not preclude contractors from entering into separate contracts for resource and referral services with other entities such as cities, counties or private industry which may allow for the collection of fees for the service provided.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8214, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18243. Resources Available for Service Providers.

The contractor shall contact each licensed facility in the contractor's service area at least annually to inform the provider of the available resources provided by the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8214, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18244. Written Referral Policies.

(a) The contractor shall develop and implement written referral policies.

(b) The written referral policies shall include the following information:

(1) A statement that referral services are available to all persons requesting them regardless of income level or other eligibility requirements;

(2) A statement that information received from the parent(s) is confidential; and

(3) The conditions under which referrals to a provider may be discontinued.

(c) The written referral policies shall be available to parents and providers upon request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8214, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Change without regulatory effect correcting formatting errors filed 10–11–2005 (Register 2005, No. 41).

§ 18245. Maximizing Parental Choice.

The contractor shall assist parents in choosing child care services by providing parents with the following:

(a) Information regarding how to select child care services which will meet the needs of the parent(s) and the child(ren).

(b) A range of possible child care alternatives from which the parents may choose.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8214, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18246. Confidentiality of Information.

The use or disclosure of information pertaining to the child or the child's family shall be restricted to purposes directly related to the administration of the program. Data collection and dissemination of information shall be handled in such a manner as to ensure confidentiality of the names and addresses of individual clients.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18247. Complaint Procedures.

(a) The contractor shall develop and implement written complaint procedures which specify:

(1) The procedures for the documentation and resolution of complaints; and

(2) The procedures for referring reports of licensing violations to appropriate agencies.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8212, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18248. Removal from Referral List; Notification of Temporary Suspension, License Revocation, or Probation.

(a) If the contractor is notified by the California Department of Social Services that a child care facility has been issued a temporary suspension

order, had its license revoked, or has been placed on probation, the contractor shall, within two business days:

(1) Remove that facility from the referral list;

(2) Notify the following entities within the contractor's jurisdiction that a particular facility has been given a temporary suspension, had its license revoked, or has been placed on probation:

(A) Alternative Payment programs that operate under article 3 of the Education Code, commencing with section 8220;

(B) CalWORKs child care and development programs that operate under article 15.5 of the Education Code, commencing with section 8350, including county welfare departments that operate child care and development programs for families participating in CalWORKs Stage 1.

(3) The contractor shall notify the facility in writing that referrals have been discontinued. The notice shall include the reason(s) for the decision and shall inform the facility of the California Department of Social Services' process for appealing.

(b) The contractor shall document action taken pursuant to subdivision (a) above. The contractor shall retain the documentation and make it available to the California Department of Education upon request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8212 and 8226, Education Code; and Section 1596.853, Health and Safety Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–6–2005 order, including amendment of section heading and section, transmitted to OAL 8–30–2005 and filed 10–11–2005 (Register 2005, No. 41).

§ 18249. Reinstatement of Provider or Facility at Conclusion of Probation or Temporary Suspension.

(a) The California Department of Social Services shall notify the contractor of the final resolution of any action about which notification is provided pursuant to section 18248(a) above.

(b) When the California Department of Social Services informs the contractor that the facility is no longer on probation, or that the temporary suspension of the facility license has been lifted without revocation, the contractor shall return the facility to the referral list within two business days and resume referrals to that facility, except when the facility is subject to conditions under which referrals to the facility may be discontinued, pursuant to section 18244(b)(3).

(c) The contractor shall document action taken pursuant to subdivisions (a) and (b) above. The contractor shall retain the documentation and make it available to the California Department of Education upon request.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8212 and 8226, Education Code; and Section 1596.853, Health and Safety Code.

HISTORY

1. New section filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5–6–2005 order, including amendment of section, transmitted to OAL 8–30–2005 and filed 10–11–2005 (Register 2005, No. 41).

[The next page is 184.77.]

Subchapter 12. Program Quality

Article 1. Scope of Chapter

§ 18270. Scope of Chapter.

Except as otherwise provided in this division, all contractors shall comply with the requirements of this chapter.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring subchapter 12 and article 1 headings (Register 91, No. 29).

Article 2. General Program Requirements

§ 18270.5. Definitions.

(a) "Agency Self-Evaluation Report" is a form issued by the department in February 2002, that is incorporated by reference.

(b) "Developmental profile" means a record of a child's physical, cognitive, social, and emotional development that is used to inform teachers and parents about a child's developmental progress in meeting desired results. In center-based programs, teacher and parent observations shall be included as part of the information used to complete the child's developmental profile. In family child care home networks, the observations of agency staff, in consultation with providers, and parents shall be included as part of the information used to complete the child's developmental profile.

(c) "Desired Results Developmental Profile" is a document issued by the department February 28, 2002 to record the information in the developmental profile defined in subsection 18270.5(b), that is incorporated by reference.

(d) "Desired Results Parent Survey" is a document issued by the department in June 2000, that is incorporated by reference.

(e) "Education program" means the environment, activities, and services provided to the children.

(f) "Environment rating scale" means an instrument that measures program quality by rating the education program as defined in Section 18273, the staff development program as defined in Section 18274, and parent involvement and education as defined in Section 18275. Environment rating scales include one or more of the following:

(1) "ECERS-R" means the document entitled, *Early Childhood Environment Rating Scale, Revised Edition*, 1998, that is incorporated by reference.

(2) "ITERS" means the document entitled, *Infant-Toddler Environment Rating Scale*, 1990, that is incorporated by reference.

(3) "FDCRS" means the document entitled, *Family Day Care Rating Scale*, 1989, that is incorporated by reference.

(4) "SACERS" means the document entitled, *School-Age Care Environment Rating Scale*, 1996, that is incorporated by reference.

(g) "Parent involvement and education" means those activities specifically designed to include parents in the education of their children, help parents participate in the program, and enhance their understanding of child development.

(h) "Parent survey" means a questionnaire completed by the parent to assess the child care program or services that the child and family receive. The parent survey asks for information about how the program helps parents support their child's learning and development and meets the family's needs.

(i) "Program self-evaluation process" means those activities and procedures used by the contractor to evaluate its program quality and compliance with applicable laws, regulations, and contractual provisions.

(j) "Staff development program" means those activities that address the needs, interests, and skills of program staff or service providers to improve program quality.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18271. Program Philosophy, Goals and Objectives.

(a) Each contractor shall have a written philosophical statement and goals and objectives which support that philosophy. The governing body of each contractor shall approve the program philosophy, goals and objectives.

(b) The goals and objectives shall address the requirements contained in all of the sections in this article.

(c) The goals and objectives shall reflect the cultural and linguistic characteristics of the families served by the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring article 2 heading (Register 91, No. 29).

§ 18272. Developmental Profile.

(a) Center-based and Family Child Care Home Education Network contractors shall complete the age-appropriate Desired Results Developmental Profile, as defined in subdivision 18270.5(c) of this chapter, for each child who is enrolled in the program for at least 10 hours per week.

(b) The Desired Results Developmental Profile required in subdivision (a) shall be completed for each child within 60 calendar days of enrollment and at least once every six months for infants, toddlers, preschoolers and school-age children.

(c) The contractor shall use the developmental profiles to plan and conduct age and developmentally appropriate activities.

(d) If a child has exceptional needs, the developmental profile shall be completed with any necessary accommodations and adaptations. Notwithstanding subdivision (a), a developmental profile is required for a child with exceptional needs even if that child is enrolled less than 10 hours per week.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
3. Amendment filed 7-16-2008; operative 8-15-2008 (Register 2008, No. 29).

§ 18273. Education Program.

(a) The standards for the child development and education program component shall include, but are not limited to, the following:

(1) The program approach is developmentally, linguistically, and culturally appropriate.

(2) The program is inclusive of children with special needs.

(3) The program encourages respect for the feelings and rights of others.

(4) The program supports children's social and emotional development by:

(A) Building trust;

(B) Planning routines and transitions so they can occur in a timely, predictable, and unhurried manner; and

(C) Helping children develop emotional security and facility in social relationships.

(5) The program provides for the development of each child's cognitive and language skills by:

(A) Using various strategies, including experimentation, inquiry, observation, play, and exploration;

(B) Ensuring opportunities for creative self-expression through activities such as art, music, movement, and dialogue;

(C) Promoting interaction and language use among children and between children and adults; and

(D) Supporting emerging literacy and numeracy development.

(6) The program promotes each child's physical development by providing sufficient time, indoor and outdoor space, equipment, materials, and guidelines for active play and movement.

(7) The program promotes and maintains practices that are healthy and safe.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error in subsection (c) (Register 91, No. 29).
3. Repealer and new section filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18274. Staff Development Program.

Each contractor shall develop and implement a staff development program that includes the following:

- (a) Identification of training needs of staff or service providers;
- (b) Written job descriptions;
- (c) An orientation plan for new employees;
- (d) An annual written performance evaluation procedure unless a different frequency of performance evaluations is specified in a contractor's collective bargaining agreement with their employees;
- (e) Staff development opportunities that include topics related to the functions specified in each employee's job description and those training needs identified by the contractor pursuant to subsection (a) of this section.

(f) An internal communication system that provides each staff member with the information necessary to carry out his or her assigned duties.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203, 8208, 8244, 8261 and 8360.1, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment of first paragraph, subsection (e) and NOTE filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18275. Parent Involvement and Education.

(a) Each contractor shall include in its program a parent involvement and education component.

(b) The parent involvement and education component shall include the following:

- (1) An orientation for parents that includes topics such as program philosophy, program goals and objectives, program activities, eligibility criteria and priorities for enrollment, fee requirements, and due process procedures;
- (2) At least two (2) individual conferences with the parent(s) per year. For school age programs, such conferences may be informal;
- (3) Parent meetings with program staff.
- (4) An open door policy that encourages parents to participate in the daily activities whenever possible; and
- (5) A parent Advisory Committee that advises the contractor on issues related to services to families and children.

(c) Sharing information between staff and parents concerning their child's progress.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Amendment filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18276. Health and Social Services.

(a) Each contractor shall include in its program a health and social service component that:

- (1) Identifies the needs of the child and the family for health or social services;

(2) Refers a child and/or family to appropriate agencies in the community based on the health or social service needs; and

(3) Conducts follow-up procedures with the parent to ensure that the needs have been met.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18277. Community Involvement.

Each contractor shall include in its program a community involvement component which shall include, but not be limited to, the following:

(a) Each contractor shall solicit support from the community. This includes the solicitation of donated goods and services.

(b) Providing information to the community regarding the services available. Contractors may utilize media or other forms of communication in the community.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error (Register 91, No. 29).

§ 18278. Nutrition.

(a) Each contractor shall include in its program a nutrition component that ensures that the children have nutritious meals and snacks during the time in which they are in the program.

(b) The meals and snacks shall be culturally and developmentally appropriate for the children being served and shall meet the nutritional requirements specified by the federal Child Care Food or the National School Lunch program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18279. Program Self-Evaluation Process.

(a) Each contractor shall develop and implement an annual plan for its program self-evaluation process.

(b) The annual plan shall include the following:

(1) A self-evaluation based on the use of the CCR, as defined in subsection 18023(a)(2) of this Chapter.

(2) An assessment of the program by parents using the Desired Results Parent Survey, as defined in subsection 18270.5(d) of this Chapter.

(3) An assessment of the program by staff and board members as evidenced by written documentation.

(4) An analysis of the CCR findings, including the Desired Results Developmental Profiles, the environment rating scales, and the Desired Results Parent Survey, each of which are defined in Section 18270.5 of this Chapter; together with all other self-evaluation findings.

(5) A written list of tasks needed to modify the program in order to address all areas that need improvement, as indicated in the analysis specified in subsection (b)(4).

(6) Procedures for the ongoing monitoring of the program to assure that areas of the program that are satisfactory continue to meet standards, and areas requiring modification pursuant to subsection (b)(5) are addressed in a timely and effective manner.

(c) The contractor shall use the Agency Self-Evaluation Report, as defined in subsection 18270.5(a) of this Chapter, to submit a summary of the findings of the program self-evaluation to the California Department of Education by June 1 of each year.

(d) The contractor shall modify its program to address any areas identified during the self-evaluation as needing improvement.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8261, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

2. Amendment of section heading and section filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18280. Parent Survey.

(a) Each contractor shall annually distribute the Desired Results Parent Survey, as defined in subsection 18270.5(d) of this Chapter, to parents; collect the surveys from parents; and analyze the results.

(b) The contractor shall use the parent survey results to plan and conduct activities to help parents support their child's learning and development and to meet the family's needs.

(c) The contractor shall use the results and analysis of the parent survey as part of its annual self-evaluation process.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

§ 18281. Environment Rating Scales.

(a) Center-based programs and family child care home networks shall complete an environment rating scale as defined in subsection 18270.5(f) of this Chapter, that is appropriate for the type of setting and age of children served, to measure program quality:

(1) Every three (3) years as part of the program compliance review; and

(2) Annually as part of the self-evaluation process.

(b) For each environment rating scale completed, the contractor shall achieve a minimum average score of "Good" on each subscale.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8203, Education Code.

HISTORY

1. New section filed 9-23-2003; operative 9-23-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).

Subchapter 13. Staffing Ratios

§ 18290. Staffing Ratios for Child Care and Development Programs.

Contractors shall maintain at least the following minimum ratios in all centers:

(a) Infants (birth to 18 months old)—1:3 adult-child ratio, 1:18 teacher-child ratio.

(b) Toddlers (18 months to 36 months old)—1:4 adult-child ratio, 1:16 teacher-child ratio.

(c) Preschool (36 months to enrollment in kindergarten)—1:8 adult-child ratio, 1:24 teacher-child ratio.

(d) Children enrolled in kindergarten through 14 years old—1:14 adult-child ratio, 1:28 teacher-child ratio.

(e) Compliance with these ratios shall be determined based on actual attendance.

NOTE: Authority cited: Section 8288, Education Code. Reference: Section 8288, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring subchapter 13 heading (Register 91, No. 29).

§ 18291. Commingling of Age Categories.

(a) Whenever groups of children of two (2) age categories are commingled and the younger age group exceeds fifty percent (50%) of the total number of children present, the ratios for the entire group must meet the ratios required for the younger age group.

(b) If the younger age group does not exceed fifty percent (50%) of the total number of the children present, the teacher-child and adult-child ratios shall be computed separately for each group.

NOTE: Authority cited: Section 8288, Education Code. Reference: Section 8288, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18292. Staffing Ratio Variance.

Except as otherwise provided in this Division or Title 22 California Code of Regulations, Community care Licensing Standards the program may exceed teacher-child and adult-child ratios prescribed by Section 18290 by fifteen percent (15%) for a period of time not to exceed one hundred twenty (120) minutes in any one day.

NOTE: Authority cited: Section 8288, Education Code. Reference: Section 8288, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

Subchapter 14. Waiver of Qualifications for Site Supervisor

§ 18295. Waiver of Qualifications for Site Supervisor; Conditions.

(a) The Child Development Division shall grant a waiver of Education Code section 8208(z) upon a contractor's demonstration of the existence of compelling need. Factors the Child Development Division shall consider in determining compelling need are as follows:

(1) Evidence that the contractor's recruitment efforts have not be successful in obtaining qualified applicants;

(2) Evidence of the contractor's inability to offer competitive salaries;

(3) Evidence of potential or current staffs lack of reasonable access to training resources which offer required course work.

(b) A waiver may be granted if the contractor can provide evidence of either (a)(1), (2) or (3) of this section.

(c) Waivers granted shall remain in effect for the period of time specified by the Child Development Division.

(d) The site supervisor shall, at a minimum, meet the qualifications specified in title 22 California Code of Regulations, Community Care Licensing Standards for "program director."

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8208(z) and 8287, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).
2. Editorial correction of printing error restoring subchapter 14 heading (Register 91, No. 29).

Subchapter 15. Appeal and Dispute Resolution Procedures

§ 18300. Scope of Chapter.

The regulations in this Chapter apply to all agencies contracting with the State Department of Education for provision of services pursuant to the Child Care and Development Services Act Chapter 2 Part 6 of Title 1 of the California Education Code (commencing with Section 8200).

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8401 and 8402, Education Code.

HISTORY

1. New section filed 11-21-88; operative 1-1-89 (Register 88, No. 50).

§ 18301. Termination, Suspension, and Major Reductions in Contract.

(a) Pursuant to the requirements of Education Code sections 8400 through 8409, an independent appeal procedure shall be available to any contractor whose contract is terminated or suspended, or whose total reimbursable contract amount is reduced by four percent (4%) or \$25,000, whichever is less.

(b) Such appeals shall be heard by independent hearing officers in accordance with procedures established by the Office of Administrative Hearings as specified in Title I California Code of Regulations, Sections 201 through 207.

(c) Termination or suspension of a contract during the contract period may occur when:

(1) A contractor fails to correct items of fiscal or programmatic non-compliance within six (6) months of receiving a conditional contract

which includes an addendum stating the specific items of noncompliance and the corrective actions necessary to come into compliance; or

(2) A contractor engages in serious misconduct posing an immediate threat to health and safety or to State funds for any of the reasons listed in Education Code section 8406.7; or

(3) A contractor fails or refuses to make available for examination or copying by an authorized employee of the Department any records or documents that the contractor is required to retain pursuant to this Division, upon a request by that employee to examine or copy such records or documents; or

(4) A contractor refuses to permit an authorized employee of the Department to enter a facility operated by the contractor during the days and/or hours of operation on file with the Department, for the purpose of reviewing administrative operations of the contractor or for observing child care and development services provided by the contractor pursuant to this Division.

(d) Any action by the Child Development Division to terminate or suspend a contract or to reduce the total reimbursable contract amount, as stated in Education Code section 8402(a) through (c), shall be preceded by a notice stating the specific reasons for the action and describing the contractor's appeal rights.

(e) Unless the termination or suspension is for reason(s) specified in Subsection (c) (2) above, the contractor may continue to operate during the appeal process.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8400–8409, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Amendment of section heading, section and NOTE filed 10–21–2002 as an emergency; operative 10–21–2002 (Register 2002, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–18–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–21–2002 order transmitted to OAL 1–10–2003 and filed 2–24–2003 (Register 2003, No. 9).

§ 18302. Contractor's Responsibility After Notice of Termination or Notice of Decision to Make No Offer of Continued Funding.

After receiving notice of the Child Development Division's decision to terminate the contract or to make no offer of continued funding, the contractor shall submit copies to or make available for copying by the Child Development Division all of the following:

(a) A current inventory of equipment purchased in whole or in part with contract funds;

(b) The names, addresses and telephone numbers of all families served by the contract, all staff members funded by the contract; and

(c) Monthly enrollment and attendance reports until the contract is actually terminated or until the final month for which the contractor retains a contract.

(d) Family child care home contractors and Alternative Payment programs shall also submit the names, addresses and telephone numbers of all providers of subsidized services under the contract.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8261 and 8402, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).
2. Amendment of section heading, section and NOTE filed 6–5–2001 as an emergency; operative 6–5–2001 (Register 2001, No. 23). A Certificate of Compliance must be transmitted to OAL by 10–3–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6–5–2001 order transmitted to OAL 10–2–2001 and filed 11–6–2001 (Register 2001, No. 45).

§ 18303. Administrative Review of Changes in Contract Status.

(a) Contract performance shall be reviewed at least annually by Child Development Division staff who shall determine by April 1 of each year whether to offer continued funding on a clear contract, continued funding on a conditional basis or to make no offer of continued funding.

(b) If the staff recommends conditional status or no offer of continued funding, the contractor shall be notified in writing of the reasons for the proposed change in contract status by April 7. The notice of proposed action shall be sufficiently specific to allow the contractor to respond to the factual basis for the proposed action.

(c) If the contractor disagrees with the proposed action:

(1) The contractor's response shall be received by the Child Development Division within ten (10) calendar days of receipt of the notice of proposed action;

(2) The contractor's response shall include any written materials in support of its position; and

(3) If the contractor intends to make an oral presentation, the response shall so specify.

(d) If the action is being appealed, the staff recommendation and the contractor's response shall be reviewed by an administrative review panel convened by the Director of the Child Development Division within seven (7) calendar days of receipt of the contractor's response. The review panel will consist of representatives of Child Development Division management and the State Department of Education's Local Assistance Bureau, Legal Office, Office of External Audits and Contracts Office and a representative of a child care and development service provider familiar with the type(s) of program(s) operated by the contractor. Upon review of the written submissions, the panel will do one of the following:

(1) Issue a final decision holding or modifying the proposed change in status if no oral presentation has been requested; or

(2) Schedule a time and place for an oral presentation by the contractor.

(3) Issue a final decision to not change the contract status.

(e) If an oral presentation has been requested, the contractor will be notified by telephone of the time and place of the presentation. The oral presentation will be scheduled no later than fourteen (14) calendar days from receipt of the contractor's response.

(f) At the oral presentation, the contractor or the contractor's representative will have an opportunity to explain any material submitted in its response. While the contractor may present any information or arguments that are relevant to the proposed action, the review panel may set reasonable limits on the scope of the presentation.

(g) Within seven (7) calendar days after the oral presentation, the review panel shall issue and mail to the contractor a decision upholding, reversing or modifying the proposed change in contract status. The decision of the review panel shall be the final action of the State Department of Education with regard to that contract.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8406 and 8406.6, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18304. Conditional Status Imposed During the Contract Period.

(a) If the contractor demonstrates fiscal or programmatic noncompliance during the contract period, based on such information as an annual audit report, a contract compliance review, a program quality review, or a change in licensing status, the Child Development Division may place the contract on conditional contract status for the remainder of the contract period.

(b) The contractor shall receive notice and may request an administrative review of the proposed action as set forth in Section 18303 of this Division, in the event such a change in contract status is recommended by staff of the Child Development Division. (c) If the contract is placed on conditional status during the last ninety (90) days of the contract period and the contractor is offered continued funding, the contract for the subsequent contract period will also be on conditional status.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18305. Conditional Status Addendum.

A conditional status contract shall contain a bill of particulars specified in Education Code Section 8406.6 called a Conditional Status Addendum explaining the contract conditions. The Addendum shall include the following:

- (a) The specific item(s) of noncompliance which the contractor must correct;
- (b) The specific corrective action(s) which must be taken;
- (c) The time period within which the contractor must complete the corrections;
- (d) Notice that failure to make required corrections will result in termination of the contract or no offer of continued funding.
- (e) If the contractor is placed on conditional status during the contract period:

(1) A Conditional Status Addendum will be issued by the State Department of Education and

(2) The Conditional Status Addendum shall be considered a part of the annual child development contract and binding on the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18306. Monthly Reports; Inventory of Equipment.

A contractor on conditional contract status shall submit:

- (a) Monthly enrollment and attendance reports to the State Department of Education, Local Assistance Bureau.
- (b) The first monthly report shall include a current inventory of equipment purchased in whole or in part with contract funds.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18307. Duration of Conditional Contract Status.

(a) A contractor shall remain on conditional contract status until the contractor has corrected deficiencies and/or has met requirements identified in the Conditional Status Addendum.

(b) A contractor with a repayment plan shall remain on conditional contract status until full repayment is made.

(c) A contractor on conditional contract status that is not on a repayment plan shall remain in that status until:

- (1) the State Department of Education issues written notice to the contractor that the conditional status has been cleared; or
- (2) the contractor is issued a clear contract; or
- (3) the contract terminates according to its terms.

(d) A contractor may request written verification from the Child Development Division that some of the deficiencies have been corrected even if the contractor will not be removed from conditional contract status.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8406.6, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

§ 18308. Resolution of Contract Administration Disputes.

(a) The procedure specified in this Section shall be used to resolve disputes between contractors and the State Department of Education that may arise regarding the interpretation and application of any term or condition of a contract, including, but not limited to, requests for waivers, approval of subcontracts or expenditures requiring approval, requests for reimbursement rate adjustments, or reductions in the total amount of contract reimbursement that are not appealable under Section 18301 of this Division.

(b) The contractor shall attempt to resolve contract disputes at the lowest staff level within the State Department of Education.

(c) If the dispute is not resolved at the lowest staff level, the contractor may appeal the decision by submitting a written description of the issues

and the basis for the dispute to the Regional Administrator of the Child Development Division having jurisdiction over the contractor's service delivery area. The Regional Administrator shall make a determination and shall send a written notification of the decision to the contractor, together with the reasons for the decision within thirty (30) calendar days of the receipt of the appeal by the Regional Administrator.

(d) The contractor may appeal the decision of the Regional Administrator to the Assistant Director of the Child Development Division by submitting a written description of the issues in the dispute and a copy of the Regional Administrator's decision. The Assistant Director of the Child Development Division shall send notification of the decision to the contractor and shall specify the reason(s) for the decision within thirty (30) calendar days of the receipt of the appeal by the Assistant Director. The decision of the Assistant Director of the Child Development Division shall be the final administrative action afforded the contractor.

NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8445, Education Code.

HISTORY

1. New section filed 11–21–88; operative 1–1–89 (Register 88, No. 50).

Chapter 19.5. CalWORKs and Child Care and Development Programs

Subchapter 1. Definitions

Article 1. General Provisions

§ 18400. Definitions.

As used in this Chapter:

(a) "CalWORKs cash aid recipient" means a minor teen parent or adult who receives cash aid from the county welfare department for the CalWORKs or Cal-Learn program.

(b) "Child care provider" means an adult or agency that provides child care services.

(c) "Contractor" means a public or private non-profit agency that has a contract with the California Department of Education for the provision of CalWORKs Stage 2 and/or Stage 3 child care services.

(d) "Diversion services" means one-time assistance services provided by the county welfare department, either in cash or in non-cash services, to an otherwise CalWORKs eligible family, when the county welfare department determines that such assistance will help the family avoid becoming a CalWORKs cash aid recipient.

(e) "Family size" means the number of adults and children related by blood, marriage, or adoption that comprise the household in which the child is living.

(1) When an adult living in the household is neither the parent of the child nor the spouse of the parent, the adult and the adult's children if any, shall be excluded from the calculation of family size.

(2) When a child is living with adult(s) other than a natural or adoptive parent, the child shall be considered a family of one. In these cases, a need criterion as specified in Section 18406(b) or (c) or 18421(b) or (c) must be met by the caretaker of the child.

(f) "Former CalWORKs cash aid recipient" means an adult or minor teen parent who has previously received and is no longer receiving cash aid in the CalWORKs or Cal-Learn program because of, but not limited to, earnings, other income, or a sanction of the adult imposed by the county welfare department.

(g) "Incapacity" means the incapacity of a parent that significantly limits the parent's ability to provide normal care for the child because of a substantiated medical or psychiatric special need that is verified by a legally qualified professional.

(h) "Legally qualified professional" means a person who is licensed under the applicable laws and regulations of the State of California to perform medical, health, or social services for the general public.

(i) "Licensed provider" means an individual or organization that has obtained a child care license, as specified in Title 22, California Code of Regulations, Section 101156.

(j) "Maximum payment rate" means the maximum payment that may be paid to a provider and that is no more than the lower of the provider's rate for unsubsidized children or 1.5 standard deviations above the mean cost of care for the region where the care is provided.

(k) "Notice of action, application for services" means a written statement of specific information issued by the contractor that informs the applicant of the contractor's decision to approve or deny child care services.

(l) "Notice of action, recipient of services" means a written statement of specific information issued by the contractor informing the family receiving child care services that a change has been made to their service agreement. These changes may include, but are not limited to, need and eligibility requirements that are no longer being met, fees that have not been paid, or the proposed modification of the fee or amount of services provided by the contractor.

(m) "Recertification" means a formal process to collect information and documentation to determine that the family continues to meet the eligibility criteria for CalWORKs child care. The adult must certify the information as accurate with a signature.

(n) "Stage 1" means the first stage of CalWORKs child care services. Stage 1 child care services are administered by the California Department of Social Services through county welfare departments pursuant to Education Code section 8351. Stage 1 child care begins when authorized by the county welfare department.

(o) "Stage 2" means the second stage of CalWORKs child care services. Stage 2 child care services are administered by the California Department of Education through contracts with alternative payment program providers pursuant to Education Code section 8353. Stage 2 child care begins when the county welfare department determines that a CalWORKs family is stable and transfers the family to a Stage 2 child care contractor for child care services, or a family applies and is found eligible for Stage 2 services.

(p) "Stage 3" means the third stage of CalWORKs child care services. Stage 3 child care services are administered by the California Department of Education through contracts with alternative payment program providers pursuant to Education Code section 8354. Stage 3 child care begins when a CalWORKs family receiving Stage 1 or Stage 2 child care services has fully utilized the family's 24 months of eligibility to Stage 1 and Stage 2 child care services following the date the adult stopped receiving cash assistance.

(q) "State median income" means the most recent median income for California families as determined by the California Department of Finance.

(r) "Time out" means that a family receiving CalWORKs Stage 1 or Stage 2 child care services becomes ineligible for Stage 1 or Stage 2 because the adult has been off cash aid for 24 months.

(s) "Welfare-to-work activity" means a county welfare department approved activity, including but not limited to, employment, job search, job training, educational training, or participating as a volunteer in a job-related activity.

NOTE: Authority cited: Sections 8203, 8261, 8263 and 8269, Education Code. Reference: Section 8359.1, Education Code.

HISTORY

1. New chapter 19.5 (subchapters 1–3), subchapter 1 (article 1), article 1 (section 18400) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New chapter 19.5 (subchapters 1–3), subchapter 1 (article 1), article 1 (section 18400) and section refilled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order, including amendment of subsections (a) and (n), transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Subchapter 2. CalWORKs Stage 2 Child Care Program

Article 1. General Provisions

§ 18405. Scope of Subchapter.

(a) The provisions contained in this subchapter shall only apply to contractors authorized to establish, maintain, or operate alternative payment programs for CalWORKs Stage 2 child care programs as defined in Education Code section 8353.

(b) Except as otherwise provided in this subchapter, contractors funded to establish, maintain, or operate alternative payment programs for CalWORKs Stage 2 child care programs shall also comply with the regulations contained in Chapter 19, Subchapter 1 (commencing with Section 17906), Chapter 19, Subchapter 2 (commencing with Section 18012, except for Section 18017 if child care is paid with Federal funds), and Chapter 19, Subchapter 15 (commencing with Section 18300).

(c) CalWORKs Stage 2 child care services may begin when child care is available through a local Stage 2 program and one of the following occurs:

- (1) The county welfare department determines that the adult's work or work activity is stable;
- (2) The adult is transitioning off CalWORKs cash aid; or
- (3) A family applies and is found eligible for CalWORKs Stage 2 services.

(d) Contractors administering Stage 2 programs in counties where there are multiple contractors shall coordinate services and cooperate to ensure all eligible families receive and continue to receive services. Contractors may coordinate across county boundaries so that eligible families living in the county, employed in the county, or receiving child care in the county receive and continue to receive such services.

NOTE: Authority cited: Sections 8261, 8262 and 8269, Education Code. Reference: Section 8353, Education Code.

HISTORY

1. New subchapter 2 (articles 1–8), article 1 (section 18405) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 2 (articles 1–8), article 1 (section 18405) and section refilled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 2. Requirements and Procedures for Receiving CalWORKs Stage 2 Services

§ 18406. Family Eligibility.

(a) A family is eligible to receive CalWORKs Stage 2 child care services if all of the following conditions are met:

(1) The family is and remains income eligible. A family is income eligible if the family's adjusted monthly income based upon the family size is at or below 75% of the state median income. Adjusted monthly income is the total countable income received by members of the family included in the family size determination minus verified child support payments paid by the parent whose child is receiving child care services. Except for child support payments paid by the parent, monthly income shall not be adjusted because of voluntary or involuntary deductions.

(A) When income fluctuations occur, the adjusted income shall be computed by averaging the total adjusted income received during the previous 12 months.

(B) For families applying for Stage 2 child care pursuant to Section 18409.5, the 12-month period shall be the 12 months immediately preceding the month in which the application is signed.

(C) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month period shall be the 12 months immediately preceding the transfer.

(D) For all other families, the 12-month period shall be the 12 months immediately preceding the month of recertification.

(E) Total countable income does not include the following:

- (i) Earnings of a child under the age of 18 years;
- (ii) Loans, grants, and scholarships obtained under conditions that preclude their use for current living costs;
- (iii) Grants or loans to students for educational purposes made or insured by a state or federal agency;
- (iv) Allowances received for uniforms or other work required clothing, food, or shelter;
- (v) Income that is used for business expenses for self-employed family members; or

(vi) The income of a recipient of federal supplemental security income and state supplemental program (SSI/SSP) benefits;

(2) The adult or minor teen parent is responsible for the care of the child needing child care; and

(3) The adult or minor teen parent is:

- (A) A CalWORKs cash aid recipient;
- (B) A former CalWORKs cash aid recipient who received such cash aid within the last 24 months; or

(C) Determined eligible for diversion services by the county welfare department.

(b) Current CalWORKs cash aid recipients must be participating in a county welfare department CalWORKs approved welfare-to-work activity or be employed.

(c) If child care is reimbursed with state funds, the parent(s) and any other adult whose income is counted towards Stage 2 eligibility must each meet one of the following requirements:

(1) Be employed. If the parent(s) works in the home, the nature of the work must preclude the supervision of the parent's children;

(2) Be seeking employment, but not to exceed 60 working days in the fiscal year;

(3) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession;

(4) Be participating in job retention services as approved by the county welfare department; or

(5) Be incapacitated.

(d) If child care is reimbursed with federal funds:

(1) The parent must meet one of the following requirements:

(A) Be employed. If the parent works in the home, the nature of the work must preclude the supervision of the parent's children;

(B) Be seeking employment, but not to exceed sixty working days in the fiscal year;

(C) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession; or

(D) Be participating in job retention services as approved by the county welfare department.

(2) Any other adult whose income is counted towards Stage 2 eligibility must meet one of the requirements contained in Subsection (d)(1) or be incapacitated.

NOTE: Authority cited: Section 8263, Education Code. Reference: Section 8350.5, Education Code; and Section 11323.2, Welfare and Institutions Code.

HISTORY

1. New article 2 (sections 18406–18411) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 2 (sections 18406–18411) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order, including amendment of section, transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18407. Child Eligibility.

(a) A child living in the household of the eligible family pursuant to Section 18406 may receive CalWORKs Stage 2 child care services if she/he is:

(1) A son or daughter of the eligible family;

(2) Receiving foster care benefits, federal Supplemental Security Income (SSI), or State Supplemental Program (SSP) benefits; or

(3) The responsibility of the adult to support and for whom the lack of child care would result in the adult not being able to work or participate in a work activity.

(b) If child care is being reimbursed with state funds, the child must:

(1) Be under 14 years of age; or

(2) Be under 22 years of age if the child has exceptional needs pursuant to Education Code section 8208(l) and is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(c) If child care is being reimbursed with federal funds, the child must:

(1) Be under 13 years of age; or

(2) Be under 19 years of age if the child is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(d) When a child's residence alternates between the homes of separated or divorced parents, eligibility, need, and fees should be determined separately for each household in which the child is residing during the time child care services are needed.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8250, 8350.5 and 8353, Education Code; and Section 11323.2, Welfare and Institutions Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order, including amendment of subsection (a), transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18408. Eligibility Duration.

(a) Notwithstanding Section 18406(a)(1), families receiving CalWORKs cash aid are categorically eligible pursuant to Education Code section 8350.5 to receive CalWORKs Stage 2 child care when:

(1) the family continues to meet the need eligibility criterion pursuant to Section 18406(b); and

(2) the requirements of Section 18084 regarding income reporting are met, in order to determine the need to assess parent fees pursuant to Section 18109; and

(3) the requirements of Chapter 19, Article 5 (commencing with Section 18108) regarding parent fees are met.

(b) A contractor's policies regarding family eligibility, except as provided in Section 18411(d), shall not supercede the categorical eligibility of a family receiving CalWORKs cash aid.

(c) When such a categorically eligible family would otherwise have their child care terminated due to the family's violation of a child care provider's policy:

(1) The contractor shall notify the county welfare department of the actions of the family that violated the contractor's policy in order to determine what action(s) may be taken.

(2) The contractor may take additional steps to remedy the situation that include but are not limited to:

(A) Developing a jointly agreed upon plan with the county welfare department for specific services to be provided to the family by the county welfare department.

(B) Jointly determining with the county welfare department whether the family would better be served in CalWORKs Stage 1.

(d) A former CalWORKs cash aid recipient meeting the requirements of Sections 18406 and 18407 is eligible to receive child care services in Stage 1 and/or Stage 2 for 24 months after the adult is no longer receiving CalWORKs cash aid. The 24-month time limit begins the first day of the month immediately following the month the adult is no longer receiving CalWORKs cash aid.

(e) A family receiving diversion services meeting the requirements of Sections 18406 and 18407 is eligible to receive child care services in Stage 2 for 24 months. The 24-month time limit begins the first day of the month that the family is determined eligible for diversion services.

(f) When a former CalWORKs cash aid recipient again becomes eligible for and receives CalWORKs cash aid, and then is terminated from CalWORKs cash aid, the family is eligible for another 24 months of Stage 1 or Stage 2 child care, or a combination of the two. The 24-month period begins on the first day of the month immediately following the month the adult is no longer receiving CalWORKs cash aid.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8351, 8353 and 8358.5, Education Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order, including amendment of section, transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

§ 18409. Enrollment into CalWORKs Stage 2 By Transfer from Another CalWORKs Agency.

(a) A family is transferred into Stage 2 from a county welfare department's Stage 1 program or another contractor's Stage 2 program when the following information is obtained by the receiving contractor from the transferring agency:

- (1) The parent's(s) full name(s), address(es), and telephone number(s);
- (2) The names and birth dates of all children under the age of 18 living with the family, regardless of whether they are served in the CalWORKs program;
- (3) The number of hours of child care needed each day for each child;
- (4) The names of other family members in the household who are related by blood, marriage, or adoption;
- (5) The reason for needing child care services;
- (6) Family size and adjusted monthly income;
- (7) Employment or training information for parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;
- (8) Rate of payment; and
- (9) The name, address, and telephone number of the child care provider.

(b) The transfer process specified in Subsection (a) is not required when a family is transferring from another CalWORKs Stage 2 contract with the same contractor.

(c) Once the receiving contractor obtains the information contained in Subsection (a) and determines that the information is complete, the receiving contractor shall:

- (1) Assume responsibility for reimbursing the provider for the child care services provided; and
- (2) Send or otherwise provide a notice to the family documenting the information and requiring that the family certify by signature that the information is accurate. Such certification shall comply with the timelines established by the contractor's policies and procedures. The contractor shall notify the family of the timeframe by which the certification must be returned, and that notwithstanding Section 18408(a), child care will be terminated, pursuant to Section 18419, if the certification is not received within that timeframe.

(3) If the family indicates that the information obtained by the receiving contractor pursuant to Subsection (a) is inaccurate or there has been a change, the new Stage 2 contractor shall update the information pursuant to Section 18410(b).

(d) When the contractor is informed by the California Department of Education that all Stage 2 funds have been allocated for a given fiscal year and contracts will no longer be augmented during the fiscal year, the Stage 2 contractor shall not accept transfers from another CalWORKs agency if doing so would result in over enrollment by the receiving Stage 2 contractor.

(e) If at any time during the fiscal year the contractor believes that accepting additional transfers would result in over enrollment, the contractor shall notify the California Department of Education.

(f) The contractor shall not establish a waiting list for Stage 2.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8351, 8353 and 8358.5, Education Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order, including new subsection (e) and subsection relettering, transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

§ 18409.5. Enrollment into CalWORKs Stage 2 When Not Transferring from Another CalWORKs Agency.

(a) When a family who is not being transferred from a county welfare department's Stage 1 program or another contractor's Stage 2 program requests CalWORKs Stage 2 child care services, an application for services must be completed containing the following information and supporting documentation:

- (1) The parent's(s) full name(s), address(es) and telephone number(s);
- (2) The names and birth dates of all children under the age of 18 in the family, regardless of whether they are served in the CalWORKs program;
- (3) The number of hours of child care needed each day for each child;
- (4) The names of other family members in the household related by blood, marriage, or adoption;
- (5) The reason for needing child care services;
- (6) Family size and monthly adjusted income;
- (7) Employment or training information for the parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;
- (8) Rate of payment;
- (9) The name, address, and telephone number of the child care provider; and
- (10) The parent(s) signature and date of the signature.

(b) Once the application has been submitted, the signature of the contractor or the contractor's employee who is authorized to certify the eligibility of the family must be obtained before the contractor assumes responsibility for reimbursing the provider for the child care services provided. Child care services received prior to the date of certification shall not be reimbursed.

(c) When the contractor is informed by the California Department of Education that all Stage 2 funds have been allocated for a given fiscal year and contracts will no longer be augmented during the fiscal year, the Stage 2 contractor shall not accept any new families if doing so would result in over enrollment and may refer any otherwise eligible family to the county welfare department Stage 1 program.

(d) If at any time during the fiscal year the contractor believes that accepting additional new families would result in over enrollment, the contractor shall notify the California Department of Education.

(e) The contractor shall not establish a waiting list for Stage 2.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8353 and 8358.5, Education Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order, including new subsection (d) and subsection relettering, transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

§ 18410. Contractor Responsibilities for Maintaining Family Eligibility.

(a) At the time of certification and recertification, a family shall be informed of its responsibility to notify the contractor within five calendar days of any changes in family income, family size, or need for child care services.

(b) The contractor shall update the family's application within 30 days after notification by the family of a change in family income, family size, or need. When updating the family's application, the contractor shall make every effort to maximize convenience for the parent and avoid requiring the parent to take time off from work or a work activity.

(c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need at intervals not to exceed twelve (12) months.

(d) If a family no longer meets the requirements specified in Sections 18406 and 18407 and the contractor receives a referral for services pursuant to Chapter 19, Section 18092, the family must be transferred to a non-CalWORKs alternative payment program contractor as soon as possible.

(e) When a former CalWORKs cash aid recipient or a diversion family times out, the family is to be transferred to CalWORKs Stage 3 effective the first day of the following month. If there are no funds available in a CalWORKs Stage 3 program or another subsidized child care program, the contractor shall terminate child care pursuant to Section 18419.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8353, Education Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order, including amendment of subsection (e), transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

§ 18411. Eligible Providers.

(a) The family has the right to select its child care provider. Licensed child care centers, licensed family homes, and child care exempt from licensure are valid parental choices of care for all families receiving Stage 2 child care.

(b) If child care is funded with state funds, a provider shall not be reimbursed for child care services that include religious instruction or worship.

(c) The child care provider shall meet all of the following requirements:

(1) Have a child care license or be exempt from child care licensing requirements, as specified in Title 22, California Code of Regulations, Sections 101158 and 102358.

(2) A license-exempt provider must:

(A) Be 18 years old or older.

(B) Meet or be exempt from Health and Safety Self-Certification requirements; and

(C) Apply for or be registered for Trustline or be exempt from Trustline Registry, pursuant to Health and Safety Code section 1596.605(a).

(d) A contractor may develop a policy for in-home license-exempt care requiring a minimum number of children to ensure the provider receives a payment equivalent to the minimum wage.

(e) The family's choice for a child care provider(s) must meet the following requirements:

(1) The child care provider's hours of operation meet the family's needs for child care;

(2) The child care provider ensures that each child's attendance is recorded for payment purposes; and

(3) Adult supervision is maintained at all times when children are in attendance.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8208.1, 8352, 8353 and 8356, Education Code; and Sections 1596.605(a) and 1596.792, Health and Safety Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order, including amendment of section, transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 3. Requirements for Family Data File

§ 18412. Family Data File.

(a) The contractor shall establish and maintain a family data file for each family receiving child care services in accordance with regulations contained in Chapter 19, Section 18081(a), (b)(1)-(5), (d), and (e).

(b) For families that transfer from a Stage 1 or another Stage 2 agency, the receiving contractor shall establish the family data file documentation pursuant to Subsection (a) within six months of the date of the transfer.

NOTE: Authority cited: Sections 8261, 8261.5, 8263 and 8269, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

HISTORY

1. New article 3 (section 18412) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (section 18412) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 4. Provider Payments and Parent Fees

§ 18413. Provider Payments.

(a) The contractor shall reimburse each provider no more than that provider charges unsubsidized families, not to exceed the maximum subsidy amount as defined in Section 18074.1.

(b) Reimbursable hours of care shall include work hours, commute hours, participation in county-approved activities, and other eligible hours as approved by the contractor.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353 and 8357, Education Code.

HISTORY

1. New article 4 (sections 18413-18414) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (sections 18413-18414) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of

Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).
4. Amendment filed 9–4–2003 as an emergency; operative 9–4–2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–2–2004 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 12–29–2003 as an emergency; operative 12–29–2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–27–2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12–29–2003 order, including amendment of section, transmitted to OAL 4–26–2004 and filed 6–8–2004 (Register 2004, No. 24).

§ 18414. Parent Fees and Co-payments.

(a) Except as otherwise provided in this Article, contractors shall apply the regulations contained in Chapter 19, Subchapter 3, Article 5 (commencing with Section 18108, except for Sections 18110, 18111, and 18114 (b)).

(b) If a parent chooses a provider with a usual and customary rate exceeding 1.5 standard deviations above the mean market rate for the type of care provided, the parent may receive services from that provider, in which case the parent is responsible for the difference between the maximum payment rate and the provider's rate.

NOTE: Authority cited: Sections 8263 and 8269, Education Code. Reference: Sections 8353 and 8357, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 5. Program Policies

§ 18415. Contractor Responsibilities.

(a) The contractor shall comply with Chapter 19, Subchapter 10, Article 2 (commencing with Section 18221, except for Section 18224(a)(2)).

(b) The contractor shall provide an application to all families requesting CalWORKs Stage 2 child care services.

(c) The contractor shall take action on any application submitted for CalWORKs Stage 2 child care services within 30 calendar days starting with the first day after the filing of the application.

(d) The contractor shall assist parents in choosing child care services by providing parents with a referral to the local resource and referral agency. The contractor shall inform parents of policies developed pursuant to Section 18413(d).

(e) The contractor shall not require the family or the provider to furnish any documentation previously provided to a county welfare department or an alternative payment program within the one year prior to application, unless the documentation is absent from the existing file and the documentation affects the eligibility for child care services.

(f) The contractor shall permit the review of the family data file by the child's parent(s) upon request and at reasonable times and places. The family data file may be reviewed by a representative of the parent if the parent provides written authorization for the review. The use or disclosure of all information pertaining to the child and his/her family shall be restricted to purposes directly connected with the administration of the program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

HISTORY

1. New article 5 (section 18415) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (section 18415) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 6. Data Reporting

§ 18416. Data Reporting.

The contractor shall submit statistical, cost, and program data to the California Department of Education by the date and in the format specified in the California Department of Education's request.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353, 8357 and 8358.5, Education Code.

HISTORY

1. New article 6 (section 18416) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 6 (section 18416) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 7. Program Quality

§ 18417. Quality.

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18271, 18274, 18277, and 18279.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8353, Education Code.

HISTORY

1. New article 7 (section 18417) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 7 (section 18417) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 8. Due Process

§ 18418. Parental Appeals.

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18120, 18121, and 18122.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

HISTORY

1. New article 8 (sections 18418–18419) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 8 (sections 18418–18419) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18419. Notice of Action Requirements.

The contractor shall comply with the regulations contained in Chapter 19, Sections 18094, 18095, 18118, and 18119(a). When a notice of action is to be issued, the contractor shall mail or personally deliver the notice

of action to the parents. If the notice of action is personally delivered, the effective day of the intended action shall be no less than 14 calendar days from the date the notice was delivered. If the notice of action is mailed, the effective date of the intended action shall be no less than 19 calendar days from the date the notice was mailed.

NOTE: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Subchapter 3. CalWORKs Stage 3 Child Care Program

Article 1. General Provisions

§ 18420. Scope of Subchapter.

(a) The provisions contained in this Subchapter shall only apply to contractors authorized to establish, maintain, or operate alternative payment programs for CalWORKs Stage 3 Child Care Programs as defined in Education Code section 8354.

(b) Except as otherwise provided in this subchapter, contractors funded to establish, maintain, or operate alternative payment programs for CalWORKs Stage 3 child care programs shall also comply with regulations contained in Chapter 19, Subchapter 1 (commencing with Section 17906), Subchapter 2 (commencing with Section 18012, except for Section 18017 if child care is paid for utilizing federal funds), and Subchapter 15 (commencing with Section 18300).

(c) Contractors administering Stage 3 programs in counties where there are multiple contractors shall coordinate services and cooperate to ensure all eligible families receive and continue to receive services. Contractors may coordinate across county boundaries so that eligible families living in the county, employed in the county, or receiving child care in the county receive and continue to receive services.

NOTE: Authority cited: Sections 8261 8263 and 8269, Education Code. Reference: Section 8354, Education Code.

HISTORY

1. New subchapter 3 (articles 1–8), article 1 (section 18420) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New subchapter 3 (articles 1–8), article 1 (section 18420) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 2. Requirements and Procedures for Receiving CalWORKs Stage 3 Services

§ 18421. Family Eligibility.

(a) A family is eligible to receive CalWORKs Stage 3 child care services if all of the following conditions are met:

(1) The family is and remains income eligible. A family is income eligible if the family's adjusted monthly income based upon the family size is at or below 75% of the state median income. Adjusted monthly income is the total countable income received by members of the family included in the family size determination minus verified child support payments

paid by the parent whose child is receiving child care services. Except for child support payments paid by the parent, monthly income shall not be adjusted because of voluntary or involuntary deductions.

(A) When income fluctuations occur, the adjusted monthly income shall be computed by averaging the total adjusted monthly income received during the previous 12 months.

(B) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month period shall be the 12 months immediately preceding the transfer.

(C) For all other families, the 12-month period shall be the 12 months immediately preceding the month of recertification.

(D) Total countable income does not include the following:

- (i) Earnings of a child under the age of 18 years;
- (ii) Loans, grants, and scholarships obtained under conditions that preclude their use for current living costs;
- (iii) Grants or loans to students for educational purposes made or insured by a state or federal agency;
- (iv) Allowances received for uniforms or other work required clothing, food, or shelter;
- (v) Income that is used for business expenses for self-employed family members; or

(vi) The income of a recipient of federal supplemental security income and state supplemental program (SSI/SSP) benefits;

(2) The adult or minor teen parent is responsible for the care of the child needing child care; and

(3) The adult or minor teen parent is:

(A) A former CalWORKs cash aid recipient and is in his/her 24th month of eligibility for CalWORKs Stage 1 and/or 2 after leaving CalWORKs cash aid; or

(B) A diversion services recipient and is in his/her 24th month of eligibility for CalWORKs Stage 1 and/or 2 child care.

(b) If child care is reimbursed with state funds, the parent(s) and any other adult whose income is counted towards Stage 3 eligibility must each meet one of the following requirements:

(1) Be employed. If the parent(s) works in the home, the nature of the work must preclude the supervision of the parent's children;

(2) Be seeking employment, but not to exceed sixty working days in the fiscal year;

(3) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession;

(4) Be participating in job retention services as approved by the county welfare department; or

(5) Be incapacitated.

(c) If child care is reimbursed with federal funds:

(1) The parent must meet one of the following requirements:

(A) Be employed. If the parent works in the home, the nature of the work must preclude the supervision of the parent's children;

(B) Be seeking employment, but not to exceed sixty working days in the fiscal year;

(C) Be participating in a job training and education program leading directly to a recognized trade, paraprofession, or profession; or

(D) Be participating in job retention services as approved by the county welfare department.

(2) Any other adult whose income is counted towards Stage 3 eligibility must meet one of the requirements contained in Subsection (c)(1) or be incapacitated.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5 and 8354, Education Code; Section 11323.2, Welfare and Institutions Code.

HISTORY

1. New article 2 (sections 18421–18426) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.

2. New article 2 (sections 18421–18426) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of

Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 10–26–2001 order, including amendment of section, transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18422. Child Eligibility.

(a) A child living in the household of an eligible family pursuant to Section 18421 may receive CalWORKs Stage 3 child care services if she/he is:

- (1) A son or daughter of the eligible family;
- (2) Receiving foster care benefits, federal Supplemental Security Income (SSI), or State Supplemental Program (SSP) benefits; or
- (3) The responsibility of the adult to support and for whom the lack of child care would result in the adult not being able to work or participate in a work activity.

(b) If child care is being reimbursed with state funds, the child must:

- (1) Be under 14 years of age; or
- (2) Be under 22 years of age if the child has exceptional needs pursuant to Education Code section 8208(l) and is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(c) If child care is being reimbursed with federal funds, the child must:

- (1) Be under 13 years of age; or
- (2) Be under 19 years of age if the child is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(d) When a child's residence alternates between the homes of separated or divorced parents, eligibility, need, and fees should be determined separately for each household in which the child is residing during the time child care services are needed.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350, 8350.5 and 8354, Education Code; Section 11323.2, Welfare and Institutions Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18423. Eligibility Duration.

After initial enrollment into a Stage 3 program, child care services will be continued as long as the child meets the requirements of Section 18422 and:

- (a) The family continues to meet eligibility requirements pursuant to Section 18421; or
- (b) The contractor has received a referral for child protective services pursuant to Chapter 19, Section 18092; or
- (c) If being reimbursed by state funds, the family is income eligible and the child has a medical or psychiatric special need that cannot be met without the provision of child care services as documented in the family data file pursuant to Chapter 19, Section 18089.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350, 8350.5 and 8354, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18424. Enrollment into CalWORKs Stage 3 By Transfer from Another CalWORKs Agency.

(a) A family is transferred into Stage 3 from a county welfare department's Stage 1 program or another contractor's Stage 2 or Stage 3 program when the following information is obtained by the receiving contractor:

- (1) The parent's(s) full name(s), address(es), and telephone number(s);
- (2) The names and birth dates of all children under the age of 18 living with the family, regardless of whether they are served in the CalWORKs program;
- (3) The number of hours of child care needed each day for each child;
- (4) The names of other family members in the household who are related by blood, marriage, or adoption;
- (5) The reason for needing child care services;
- (6) Family size and adjusted monthly income;
- (7) Employment or training information for parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;
- (8) Rate of payment; and
- (9) The name, address, and telephone number of the child care provider.

(b) The transfer process specified in Subsection (a) is not required when a family is transferring from another CalWORKs Stage 2 or Stage 3 contract with the same contractor.

(c) Once the receiving contractor obtains the information contained in Subsection (a) and determines that the information is complete, the receiving contractor shall:

(1) Assume responsibility for reimbursing the provider for the child care services provided effective the first of the month after the family has timed out of Stage 1 or Stage 2; and

(2) Send or otherwise provide a notice to the family documenting the information and requiring that the family certify by signature that the information is accurate. Such certification shall comply with the timelines established by the contractor's policies and procedures. The contractor shall notify the family of the timeframe by which the certification must be returned, and that child care will be terminated, pursuant to Section 18434, if the certification is not received within that timeframe.

(3) If the family indicates that the information obtained by the receiving contractor pursuant to Subsection (a) is inaccurate or there has been a change, the new Stage 3 contractor shall update the information pursuant to Section 18425(b).

(d) The contractor shall enroll eligible families into Stage 3 as they time out without regard to prioritization until the notification from the California Department of Education pursuant to subsection (e) below is received.

(e) If at any time during the fiscal year the contractor believes that accepting eligible families into Stage 3 as they time out would result in over enrollment, the contractor shall notify the California Department of Education.

(f) Notwithstanding Chapter 19, Section 18225, when a contractor is informed by the California Department of Education that all Stage 3 funds have been allocated for a given fiscal year and contracts will no longer be augmented during that fiscal year, the contractor shall:

(1) Review the Stage 1 and 2 caseload designated to transfer into the contractor's Stage 3 contract each month for the remainder of the current fiscal year. The contractor shall determine if the current fiscal year Stage 3 funds available are sufficient to continue child care for all families that will time out of Stage 1 and 2 services each month of the current fiscal year.

(2) Continue to enroll families without regard to prioritization until the specific month that funding is insufficient to enroll all families that have timed out of Stage 1 and 2 the previous month.

(3) Upon determination that funding is insufficient to provide services to all families that will time out in a specific month, enroll families until all Stage 3 funds are fully utilized, with priority given to families with the

lowest adjusted monthly income in relation to family size in accordance with the family fee schedule.

(4) Not establish a waiting list for CalWORKs Stage 3 of otherwise eligible families when there are insufficient funds pursuant to this Section.

(g) Subsequently, if additional Stage 3 funding becomes available due to attrition, the families that have timed out in the month that funding becomes available shall be enrolled with priority given to families with the lowest adjusted monthly income in relation to family size in accordance with the family fee schedule.

(h) The contractor shall mail or personally deliver a completed notice of action to the parent(s) pursuant to Section 18434 when services are to be terminated due to insufficient funds.

NOTE: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5 and 8354, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order, including new subsection (e) and subsection relettering, transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18425. Contractor Responsibilities for Maintaining Family Eligibility.

(a) At the time of certification and recertification, a family shall be informed of its responsibility to notify the contractor within five calendar days of any changes in family income, family size, or need for child care services.

(b) The contractor shall update the family's application within 30 days after notification by the family of a change in family income, family size, or need. When updating the family's application, the contractor shall make every effort to maximize convenience for the parent and avoid requiring the parent to take time off from work or a work activity.

(c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need as follows:

(1) Families receiving care where the need is child protective services shall be recertified at least once every 6 months;

(2) All other families shall be recertified at intervals not to exceed 12 months.

(d) If the California Department of Education notifies the contractor that funds are not available to serve the existing Stage 3 caseload and it is necessary to displace families, families shall be displaced in reverse order of enrollment priority based on income levels pursuant to Education Code section 8263(b)(2). When two or more families are in the same priority in relation to income, the family that has received care in Stage 3 for the shortest period of time shall have higher priority.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8350.5 and 8354, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18426. Eligible Providers.

(a) The family has the right to select its child care provider. Licensed child care centers, licensed family homes, and child care exempt from licensure are valid parental choices of care for all families receiving Stage 3 child care.

(b) If child care is funded with state funds, a provider shall not be reimbursed for child care services that includes religious instruction or worship.

(c) The child care provider shall meet all of the following requirements:

(1) Have a child care license or be exempt from child care licensing requirements, as specified in Title 22, California Code of Regulations, Sections 101158 and 102358.

(2) A license-exempt provider must:

(A) Be 18 years old or older.

(B) Meet or be exempt from Health and Safety Self-Certification requirements; and

(C) Apply for or be registered for Trustline or be exempt from Trustline Registry, pursuant to Health and Safety Code section 1596.605(a).

(d) A contractor may develop a policy for in-home license-exempt care requiring a minimum number of children to ensure the provider receives a payment equivalent to the minimum wage.

(e) The family's choice for a child care provider must meet the following requirements:

(1) The child care provider's hours of operation meet the family's needs for child care;

(2) The child care provider ensures that each child's attendance is recorded for payment purposes; and

(3) Adult supervision is maintained at all times when children are in attendance.

NOTE: Authority cited: Sections 8261, 8263 and 8269, Education Code. Reference: Sections 8208.1, 8354 and 8356, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order, including amendment of section, transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Article 3. Requirements for Family Data File

§ 18427. Family Data File.

(a) The contractor shall establish and maintain a family data file for each family receiving child care services in accordance with regulations contained in Chapter 19, Section 18081(a), (b)(1)–(5), (d), and (e).

(b) For families that transfer from a Stage 1, Stage 2, or another Stage 3 agency, the receiving contractor shall establish the family data file documentation pursuant to Subsection (a) within six months of the date of the transfer.

NOTE: Authority cited: Sections 8261, 8261.5, 8263 and 8269, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

HISTORY

1. New article 3 (section 18427) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 3 (section 18427) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance

must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 4. Provider Payments and Parent Fees

§ 18428. Provider Payments.

(a) The contractor shall reimburse each provider no more than the amount the provider charges unsubsidized families, not to exceed the maximum subsidy amount as defined in Section 18074.1.

(b) Reimbursable hours of care shall include work hours, commute hours, participation in county-approved activities, and other eligible hours as approved by the contractor.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354 and 8357, Education Code.

HISTORY

1. New article 4 (sections 18428-18429) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 4 (sections 18428-18429) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).
4. Amendment filed 9-4-2003 as an emergency; operative 9-4-2003 (Register 2003, No. 36). A Certificate of Compliance must be transmitted to OAL by 1-2-2004 or emergency language will be repealed by operation of law on the following day.
5. Amendment refiled 12-29-2003 as an emergency; operative 12-29-2003 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4-27-2004 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12-29-2003 order, including amendment of section, transmitted to OAL 4-26-2004 and filed 6-8-2004 (Register 2004, No. 24).

§ 18429. Parent Fees and Co-Payments.

(a) Except as otherwise provided in this Article, contractors shall apply the regulations contained in Chapter 19, Subchapter 3, Article 5 (commencing with Section 18108, except for Sections 18110, 18111, and 18114(b)).

(b) If a parent chooses a provider with a usual and customary rate exceeding 1.5 standard deviations above the mean market rate for the type of care provided, the parent may receive services from that provider, in which case the parent is responsible for the difference between the maximum payment rate and the provider's rate.

NOTE: Authority cited: Sections 8263 and 8369, Education Code. Reference: Sections 8354 and 8357, Education Code.

HISTORY

1. New section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 5. Program Policies

§ 18430. Contractor Responsibilities.

(a) The contractor shall comply with Chapter 19, Subchapter 10, Article 2 (commencing with Section 18221, except for Section 18224(a)(2)).

(b) The contractor shall assist parents in choosing a child care provider by providing parents with a referral to the local resource and referral

agency. The contractor shall inform parents of policies developed pursuant to Section 18428(d).

(c) The contractor shall not require the family or the provider to furnish any documentation previously provided to a county welfare department or an alternative payment program within the one year prior to application, unless the documentation is absent from the existing file and the documentation affects the eligibility for child care services.

(d) The contractor shall permit the review of the family data file by the child's parent(s) upon request and at reasonable times and places. The family data file may be reviewed by a representative of the parent if the parent provides written authorization for the review. The use or disclosure of all information pertaining to the child and his/her family shall be restricted to purposes directly connected with the administration of the program.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

HISTORY

1. New article 5 (section 18430) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 5 (section 18430) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 6. Data Reporting

§ 18431. Data Reporting.

The contractor shall submit statistical, cost, and program data to the California Department of Education by the date and in the format specified in the California Department of Education's request.

NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354, 8357 and 8358.5, Education Code.

HISTORY

1. New article 6 (section 18431) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 6 (section 18431) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 7. Program Quality

§ 18432. Quality.

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18271, 18274, 18277, and 18279.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8302 and 8354, Education Code.

HISTORY

1. New article 7 (section 18432) and section filed 6-28-2001 as an emergency; operative 6-28-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-26-2001 or emergency language will be repealed by operation of law on the following day.
2. New article 7 (section 18432) and section refiled 10-26-2001 as an emergency; operative 10-26-2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-25-2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10-26-2001 order transmitted to OAL 1-28-2002 and filed 3-12-2002 (Register 2002, No. 11).

Article 8. Due Process

§ 18433. Parental Appeals.

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18120, 18121, and 18122.

NOTE: Authority cited: Section 8261, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

HISTORY

1. New article 8 (sections 18433–18434) and section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New article 8 (sections 18433–18434) and section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

§ 18434. Notice of Action Requirements.

The contractor shall comply with the regulations contained in Chapter 19, Sections 18094, 18095, 18118, and 18119(a). When a notice of action is to be issued, the contractor shall mail or personally deliver the notice of action to the parents. If the notice of action is personally delivered, the effective date of the intended action shall be no less than 14 calendar days from the date the notice was delivered. If the notice of action is mailed, the effective day of the intended action shall be no less than 19 calendar days from the date the notice was mailed.

NOTE: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

HISTORY

1. New section filed 6–28–2001 as an emergency; operative 6–28–2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–26–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–26–2001 as an emergency; operative 10–26–2001 (Register 2001, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–25–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 10–26–2001 order transmitted to OAL 1–28–2002 and filed 3–12–2002 (Register 2002, No. 11).

Chapter 20. State Board of Education Procedures

Subchapter 1. General Provisions

Article 1. Public Hearing

§ 18460. Public Hearings.

(a) The Board may hold a public hearing regarding any matter pending before it after giving the notice required for meetings by the Government Code.

(b) The Board may direct that a public hearing be held before staff of the Department of Education, an advisory commission to the Board, or a standing or ad hoc committee of the Board regarding any matter which is or is likely to be pending before the Board.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Sections 33030 and 33031(a), Education Code.

HISTORY

1. Repealer of former Article 1 (Section 18400), Article 2 (Sections 18420–18424), Article 3 (Sections 18430–18435), Article 4 (Section 18440), Article 5 (Sections 18450–18456) and Article 7 (Sections 18470–18473) filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42). For prior history of Chapters 1 and 1.3, see Registers 83, No. 51; 77, No. 39; and 75, No. 44.
2. Redesignation of former Article 6 (Sections 18460–18464) to Article 1 and amendment of subsection (a) filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

§ 18461. Speakers.

Persons wishing to address the Board on a subject to be considered at a future meeting, including any matter designated as a public hearing, shall present a written request to the Secretary by noon of the third working day before the scheduled hearing at 721 Capitol Mall, Sacramento, CA 95814, stating the subject they wish to address, the organization they represent, if any, and the nature of their testimony.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Sections 33030 and 33031(a), Education Code.

HISTORY

1. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Amendment filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

§ 18462. Copies of Statement.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Sections 33030 and 33031(a), Education Code.

HISTORY

1. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Repealer filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

§ 18463. Presentation of Public Testimony.

At or before the hearing at which oral comments from the public are to be received, the Board President or the chairperson of a hearing body other than the full board shall determine the total amount of time that will be devoted to hearing such oral comments, and may determine the time to be allotted to each person or to each side of an issue.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Sections 33030 and 33031(a), Education Code.

HISTORY

1. New section filed 5–28–76 as procedural and organizational; effective upon filing (Register 76, No. 22).
2. Repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
4. Amendment filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

§ 18464. Waiver by President.

At any time, upon a showing of good cause, the Board President or the chairperson of a hearing body other than the full board may waive the requirements of Sections 18461 and 18463.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Section 33031(a), Education Code.

HISTORY

1. Renumbering from Section 18463 and amendment filed 5–28–76 as procedural and organizational; effective upon filing (Register 76, No. 22).
2. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
3. Amendment filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

Subchapter 2. Procedure for Appearance of an Employee Under Government Code Section 1028.1

NOTE: Authority cited: Section 33031(a), Education Code.

HISTORY

1. New Chapter 2 (§§ 18520–18523) filed 9–23–69; effective thirtieth day thereafter (Register 69, No. 39).
2. Amendment of section and new NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of Chapter 2 (Sections 18520–18523) filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).

Subchapter 3. Procedures Relating to Instructional Materials

Article 1. Procedures for the Public Display of Textbooks, Public Hearing Given the Curriculum Development and Supplemental Materials Commission, and Receipt of Comments from the Public

§ 18530. Curriculum Commission Recommendation.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202–60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 10–24–77; effective thirtieth day thereafter (Register 77, No. 44). For prior history, see Register 77, No. 39.
2. Editorial correction to NOTE (Register 77, No. 51).
3. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18531. Procedure for Hearing Given the Curriculum Commission.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 9–24–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment filed 10–3–75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 10–24–77; effective thirtieth day thereafter (Register 77, No. 44).
4. Editorial correction to NOTE (Register 77, No. 51).
5. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18532. Display of Instructional Materials.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 9–24–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10–3–75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 10–24–77; effective thirtieth day thereafter (Register 77, No. 44).
4. Editorial correction to NOTE (Register 77, No. 51).
5. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18533. Written Statements to the Board Regarding Instructional Materials and Curriculum Frameworks.

(a) Any person may submit to the Board a concise written statement regarding any instructional materials or curriculum frameworks recommended by the Curriculum Commission for adoption, as follows:

(1) A statement of error appearing in the instructional materials or curriculum framework. The statement shall indicate the page, pages or place in which the error appears, shall include a specification of the error, and, where possible, shall mention a responsible source of information from which the Board can confirm the existence of such error.

(2) A statement of objection to a specific item of content which shall include the page number or other identification of, and reference to, the item of content to which objection is made, and the grounds of the objection.

(3) Comments relating to any other factor of which the Board should be aware before making a decision to accept the recommendation of the Curriculum Commission.

(4) A general objection to the adoption of the instructional materials or curriculum framework. The statement shall include a brief statement of the objection and evidence or grounds supporting the objection.

(5) A statement supporting the instructional materials or curriculum framework as a whole or any portion thereof. The statement shall include the reasons for supporting the recommended adoption or for supporting specified portions thereof.

(b) One copy of the statement, typewritten (or in clearly legible manuscript) and signed, shall be mailed post paid, to the Executive Secretary of the Board, 721 Capitol Mall, Sacramento, California, 95814, postmarked not later than 10 days prior to the date set for the Board's public hearing.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60200 and 60202, Education Code.

HISTORY

1. Amendment of subsection (a) filed 9–24–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment of subsection (a) refiled 10–3–75; effective thirtieth day thereafter (Register 75, No. 40).
3. New NOTE filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).
4. Amendment of section heading, subsections (a), (a)(1) and (a)(3)–(5), repealer of subsections (b) and (c), subsection relettering, and amendment of newly designated subsection (b) adopted by the Department of Education on 12–5–94. Amended section submitted to OAL for printing only on 12–6–94, effective 12–30–94. Exempt from Chapter 3.5 of the Government Code pursuant to Education Code section 60004 (Register 95, No. 3).

§ 18534. Oral Comments from the Public; Notice of Intention to Present.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 60200, 60202 and 60203, Education Code.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18535. Participation by the Public.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 5–28–76 as procedural and organizational; effective upon filing (Register 76, No. 22).
2. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18536. Time Devoted to Oral Comments of the Public.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 10–30–75 as procedural and organizational; effective upon filing (Register 75, No. 44).
2. Amendment filed 5–28–76 as procedural and organizational; effective upon filing (Register 76, No. 22).
3. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18537. Time Limitations.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18538. Manner of Oral Presentation.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

Article 2. Procedures for Submission and Opening of Bids for Elementary Instructional Materials

§ 18550. Definitions.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Sections 60202, 60203, 60204 and 60220–60224, Education Code.

HISTORY

1. Amendment filed 9–24–75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10–3–75; effective thirtieth day thereafter (Register 75, No. 40).

3. Amendment of subsection (e) filed 10-24-77; effective thirtieth day thereafter (Register 77, No. 44).
4. Editorial correction to NOTE (Register 77, No. 51).
5. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18551. Contents of Invitation to Submit Instructional Materials for Adoption in California.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Section 60222, Education Code.

HISTORY

1. Amendment filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).
4. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18552. Mailing of Invitation to Submit.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Section 60222, Education Code.

HISTORY

1. Amendment filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).
4. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18553. Submission of Instructional Materials.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Section 60222, Education Code.

HISTORY

1. Amendment filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).
4. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18554. Submission of Bids.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Section 60222, Education Code.

HISTORY

1. Amendment filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).
3. Amendment filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).
4. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18555. Opening of Bids.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: section 60222, Education Code.

HISTORY

1. Repealer and new section filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).
2. Repealer filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).

§ 18556. Opening of Bids.

NOTE: Authority cited: Sections 33031(a) and 60001, Education Code. Reference: Section 60222, Education Code.

HISTORY

1. Repealer filed 1-17-80; effective thirtieth day thereafter (Register 80, No. 3).

§ 18557. Estimated Cost of Manufacture.

HISTORY

1. Repealer filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Repealer refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).

§ 18558. Estimated Cost of Acquisition.

HISTORY

1. Repealer filed 9-24-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Repealer refiled 10-3-75; effective thirtieth day thereafter (Register 75, No. 40).

Subchapter 4. Procedures Relating to Hearings on Proposals and Petitions for the Reorganization of School Districts

§ 18570. Submission of Proposals and Petitions.

A proposal by the county committee on school district organization, a petition by another public agency or electors for the reorganization of a school district other than a transfer of territory, or an appeal under Education Code section 35710.5 or 35711 of an action by the county committee approving or disapproving a petition to transfer territory from one district to another shall be submitted to the Executive Officer of the Board. The Executive Officer of the Board shall cause the proposal, petition or the appeal to be:

(a) Reviewed and analyzed by the California Department of Education.

(b) Set for hearing before the State Board of Education at the earliest practicable date.

(c) Transmitted, together with the report and recommendation of the California Department of Education, to the Board and to such other persons as is required by law not later than ten days before the date of the hearing.

NOTE: Authority cited: Section 33031, 35712, and 35768, Education Code. Reference: Sections 35707, 35708, 35710.5, 35711, and 35752, Education Code.

HISTORY

1. New Chapter 4 (§§ 18570 through 18574) filed 7-22-69; effective thirtieth day thereafter (Register 69, No. 30).
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of NOTE filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).
4. Amendment of section and NOTE filed 3-29-96; operative 4-28-96 (Register 96, No. 13).

§ 18571. Arguments Before the Board (Original Submission).

At the time and place of hearing, the Board will receive oral and/or written arguments on the proposal, petition or the appeal. The Board may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The Board will not entertain a repetition of arguments previously presented by the same or another speaker at that meeting, or presented at a previous meeting at which the proposal, petition or appeal was considered.

NOTE: Authority cited: Section 33031, 35712 and 35768, Education Code. Reference: Sections 35708, 35710.5, 35711, 35752 and 35754, Education Code.

HISTORY

1. New NOTE filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).
2. Amendment of section and NOTE filed 3-29-96; operative 4-28-96 (Register 96, No. 13).

§ 18572. Resubmissions and Petitions for Reconsideration.

(a) At any time following a decision by the Board on a proposal, petition or appeal, the original petitioner, county committee on school district organization, or any affected school district may resubmit the same or essentially identical proposal, or may petition the Board for reconsideration of the Board's decision.

(b) Any resubmission or petition for reconsideration shall be accompanied by new arguments or new facts not previously presented to the Board.

(c) No resubmission or petition for reconsideration shall be acted upon by the Board with respect to any reorganization proposal that has been

called for election pursuant to Education Code section 35710.51 or 35756.

NOTE: Authority cited: Section 33031, 35712 and 35768, Education Code. Reference: Sections 35707, 35708, 35710–35711, 35752 and 35756, Education Code.

HISTORY

1. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Amendment of section heading, repealer of section and new section, and amendment of NOTE filed 3–29–96; operative 4–28–96 (Register 96, No. 13).

§ 18573. Criteria for Reorganization of School Districts.

(a) The analysis of the proposal or petition by the California Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:

(1) It is the intent of the State Board that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:

(A) Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes:

Elementary District	901
High School District	301
Unified District	1,501

(B) The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.

(2) To determine whether the new district is organized on the basis of substantial community identity, the following criteria should be considered:

- (A) Isolation.
- (B) Geography.
- (C) Distance between social centers.
- (D) Distance between school centers.
- (E) Topography.
- (F) Weather.
- (G) Community, school, and social ties and other circumstances peculiar to the area.

(3) To determine whether an equitable division of property and facilities will occur, the California Department of Education will determine which of the criteria authorized in Education Code Section 35736 shall be applied. It shall also ascertain that the affected districts and the county office of education are prepared to appoint the committee described in Education Code section 35565 to settle disputes arising from such division of property.

(4) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

(A) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.

(B) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the affected districts.

(C) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.

(D) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circum-

stances that may have an effect on the feasibility of integration of the affected schools.

(E) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

(5) The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.

(b) The Board may waive the criteria specified in subsections (a)(1) through (a)(5) of this section and may approve a proposal or petition or decide an appeal under Education Code section 35710.5 or 35711 if the Board determines circumstances with respect to the proposal, petition or appeal provide a sufficient exceptional situation.

NOTE: Authority cited: Sections 33031, 35712, 35750 and 35768, Education Code. Reference: Section 35710.5, 35711 and 35753, Education Code; *Crawford v. Board of Education* (1976) 17 CAL.3d 280; *NAACP v. San Bernardino City Unified School District* (1976) 17 CAL.3d 311.

HISTORY

1. Repealer and new section filed 12–17–76; effective thirtieth day thereafter (Register 76, No. 51).
2. Amendment of subsection (b)(4) and repealer of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment filed 1–17–80; effective thirtieth day thereafter (Register 80, No. 3).
4. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
5. Amendment of section and NOTE filed 3–29–96; operative 4–28–96 (Register 96, No. 13).

§ 18574. Policy.

NOTE: Authority cited: Section 33031(a), Education Code. Reference: Sections 35750 and 35753, Education Code.

HISTORY

1. New NOTE filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Repealer filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 42).

Subchapter 5. State Board of Education—Conflict of Interest Code

§ 18600. General Provisions.

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the State Board of Education, except as provided below.

Designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of members of the board, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

EXCEPTION: As provided in 2 Cal. Code of Regulations Section 18730(b)(1), the definitions contained in the Political Reform Act of 1974 shall apply to the terms used in this Code except that neither the term “investment” nor the term “business entity” shall operate to exclude any private school in California, whether or not such school is operated for profit.

NOTE: Authority cited: Sections 87300, 87304 and 87306, Government Code. Reference: Sections 87300 et seq., Government Code.

HISTORY

1. New chapter 5 (sections 18600–18608) filed 12–17–76; designated effective 2–1–77. Approved by Fair Political Practices Commission 10–6–76 (Register 76, No. 51).
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of chapter 5 (sections 18600–18608) and new chapter 5 (section 18600 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
4. Amendment filed 2–15–94; operative 3–17–94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 1–25–94 (Register 94, No. 7).
5. Amendment of NOTE and appendix (list of designated employees) filed 8–1–2001; operative 8–31–2001. Approved by Fair Political Practices Commission 6–28–2001 (Register 2001, No. 31).

Appendix

Designated Employees

	Disclosure Category
Members of the State Board of Education	I, II
Members of the Curriculum Development and Supplemental Materials Commission and respective instructional materials evaluation panels, the Advisory Commission on Special Education, the Child Nutrition Advisory Council, the Commission on Technology in Learning, and any other commission, committee, council, or similar group which is not solely advisory and which reports to the State Board of Education	I

Disclosure Categories

Category I. Persons in this category shall report investments, business positions, and income to the extent that they know or have reason to know that the business entity in which the investment or business position is held or the source of income is a publisher, manufacturer, or vendor of instructional materials, or services offered to educational institutions in the State of California. They shall also report any investments, positions of management and income from any private school in the State of California.

Category II. Persons in this category shall report interests in real property in California.

Chapter 21. Private Postsecondary Education Instructions

Subchapter 1. General Provisions

§ 18800. Definitions.

(a) “Instructor.” An instructor is the individual who is responsible for the routine operation of a course on its scheduled basis; a person who is the primary source of instruction, knowledge and expertise by reason of his or her constant presence or availability in the classroom or facility or through correspondence instruction. “Instructor” does not include persons designated as teaching assistants, guest lecturers, substitute teachers, teacher aides or any other personnel specifically not subject to approval by the superintendent. However, such designated personnel may be used without specific approval so long as, in the opinion of the superintendent, the quality or effectiveness of instruction is not impaired and the intent of Sections 18814(b) and 18817 is not circumvented.

(b) “Administrator.” An administrator is any owner or staff member of an institution who has an active role in its operation and has responsibilities such as managing, supervising, planning, research, personnel, financial operations, or working directly with students or prospective students in a noninstructional capacity excepting personnel who function exclusively as off-site agents holding permits pursuant to Education Code Section 94333. “Administrator” does not include persons who provide support services and do not have primary responsibility for the area of operation in which they are working, custodial and maintenance staff, and outside personnel under contract.

(c) “Specific Degree.” As used in Education Code Section 94310.2, “specific degree” means a degree, the title of which includes the specific academic, educational, technological or professional objective attained

which, in turn, is recognized by any institution operating under Education Code Section 94310.1.

(d) “Superintendent.” “Superintendent” means the State Superintendent of Public Instruction and includes the Private Postsecondary Education Division where appropriate.

(e) “Avocational or Recreational Education.” Education solely avocational or recreational, as used in Education Code Section 94303, is education, the object of which is not primarily to train for employment, but which is commonly pursued for personal entertainment, recreation, individual edification or as a hobby.

(f) “Makes Available.” As used in Education Code Section 94312(h), “makes available” means to expressly inform the prospective student that a catalog or brochure may readily be examined or obtained.

(g) “Institution Structured by Schools of Theology.” As used in Education Code Section 94310.4, an “institution structured by schools of theology” is one in which the education is restricted primarily to courses or curriculum in theology or ministry, and other education or instruction directly related to theology or ministry, the content of which is not necessarily limited to the principles of any particular church or denomination.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94303, 94310, 94311(d)(3), 94312(h) and 94333, Education Code.

HISTORY

1. Repealer of Division 21 (Sections 18800–19281, not consecutive) and new Division 21 (Sections 18800–18841, not consecutive) filed 4–3–79; effective thirtieth day thereafter (Register 79, No. 14). For prior history, see Registers 77, No. 39; 77, No. 27; 76, No. 7; 75, No. 51; 75, No. 23; 75, No. 9; 71, No. 1; 70, No. 16; 70, No. 13; 70, No. 9; 65, No. 4; and 64, No. 20.
2. Repealer of former Section 18800 and renumbering and amendment of Section 18801 to Section 18800 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).
3. Change without regulatory effect filed 2–2–89; operative 2–2–89 (Register 89, No. 8).

§ 18801. Content of Diplomas and Degrees.

(a) Every diploma and degree document conferred by an institution shall contain at least all of the following:

- (1) The full name of the institution;
- (2) The address of the institution or the city of its principal campus or administrative facility;
- (3) The date the document is issued;
- (4) The full legal name of the recipient;
- (5) A full and clear citation of the diploma course completed, the course of study or discipline in which the degree is earned, or the distinction on which the honorary degree is conferred, as appropriate.

(b) Honorary degrees may be granted by an institution provided that, the honorary degree has on its face, in letters no smaller than those used for the specific name of the degree, either the word “Honorary” in English or the words “Honoris Causa.”

(c) The title of any degree awarded by an institution structured by schools of theology authorized by Education Code Section 94310.4 shall include specific language that identifies the degree as one of theology or ministry.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94302(f) and (g), 94310 and 94312(i), Education Code.

HISTORY

1. Renumbering and amendment of former Section 18801 to Section 18800, and renumbering and amendment of former Section 18803 to Section 18801 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect of subsection (c) filed 2–2–89; operative 2–2–89 (Register 89, No. 8).

§ 18802. Custodian of Records.

In order to implement the purpose of Education Code Section 94312(k):

(a) Any institution shall advise the student in a catalog or brochure that the institution is required by law to maintain student records for a period of only five years.

(b) Any institution shall, in the event of complete cessation of all operations, immediately retain a custodian of records and advise the superintendent of the custodian’s name, address and telephone number. The institution shall arrange for the custodian to retain, for the balance

remaining of five years, all those records described in Education Code Section 94312(k) along with each former student's record of attendance and academic progress.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Repealer of former Section 18802 and renumbering of Section 18804 to Section 18802 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18803. Affiliation and Evaluation of Credit.

(a) An institution shall not affiliate with another institution for the purpose of offering educational services or granting diplomas or degrees unless both institutions are approved or authorized under one or another of Education Code Sections 94310 or 94311, and the fact of affiliation is reported to the superintendent.

(b) An institution shall not grant diplomas or degrees solely on the basis of education taken at, or credit transferred from, another institution or institutions, or solely on noninstructional learning experiences. Diplomas and degrees may be granted on the basis of a combination of instruction and noninstructional learning experiences for which the institution details explicit rationale for the awarding of credit and systematic and vigorous method for evaluating it.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94310, 94311 and 94312(m), Education Code.

HISTORY

1. Renumbering and amendment of former Section 18803 to Section 18801, and renumbering and amendment of Section 18805 to Section 18803 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18804. Advertising.

(a) Nothing contained in Education Code Section 94321 shall prohibit an institution and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if all of the following conditions are met: specifically that:

(1) There is a shortage of persons with the skills advertised as wanted in the circulation area of the publication in which the advertisement appears.

(2) There is an anticipated need for persons trained in such skills at the end of the institution's regular training period for the skills.

(3) The advertisement clearly identifies the institution and the employer as separate entities and gives the complete address of both.

(4) The advertisement clearly indicates that graduation does not guarantee employment by the employer named in the advertisement.

(b) Institutions may advertise or otherwise represent the fact of holding a valid approval or authorization to operate, issued by the superintendent, but in doing so must:

(1) State that the approval or authorization "to operate" is "by the California Superintendent of Public Instruction," or "State Superintendent Approved" or "State Superintendent Authorized" as appropriate.

(2) State that the approval is conditional or provisional, if that is the fact.

(c) Institutions may advertise or otherwise represent the fact of holding an accreditation, or of holding any approval other than by the superintendent. In so doing the representation shall be immediately followed by:

(1) The complete name of the organization or agency by which the institution is accredited or approved, except with respect to accreditation agencies recognized by the U.S. Department of Education or its successor agency in which case initials of the name may be used.

(2) The status of the accreditation or approval if less than full; and

(3) The fact, if true, that such organization or agency is not recognized by the U.S. Department of Education or its successor agency.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Section 94321(a) and (f), Education Code.

HISTORY

1. Renumbering of former Section 18804 to Section 18802, and renumbering and

amendment of Section 18806 to Section 18804 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18805. Refund Policy.

(a) Institutions approved or authorized pursuant to Education Code Sections 94310.2, 94310.3, and 94310.4, and 94311(d) shall, in the event of a student or applicant cancels enrollment prior to the completion of the course, promptly refund to each student the unused portions of paid tuition fees and other charges or reduce the amount due under the enrollment contract, as appropriate, in accordance with the following minimum standards:

(1) Cancellation of Contract or Enrollment. A student or applicant may cancel the contract or enrollment by notifying institution personnel of that intention. Such notice is effective when delivered or when postmarked. An institution may require a written notice of cancellation provided that such requirement is clearly detailed in the catalog and enrollment agreement.

(2) Instructional Materials. If there is to be any charge to a student or applicant for instructional materials under any circumstances whatever, the school must detail provisions, if any, for the return or recovery of the materials, and a specific price must be affixed to the items and clearly cited. Fees for instructional materials shall not be considered as "tuition fees" as used in this section.

Initial correspondence course materials shall be sent to the student within 7 working days following receipt of student enrollment, or the student may rescind the contract and shall be entitled to full refund of all monies paid.

At any time during the enrollment period, a correspondence institution shall upon written request send the balance of all course materials to any student who has paid in full under his contract. If the student has not paid in full but has paid in excess of the amount owed under paragraph (6) below, the institution shall upon written request send the student the materials paid for but not received, which will constitute full settlement of the institution's obligation to the student. In such event, the school shall remain obligated for all services to which the student is entitled.

(3) Registration Fees. An institution shall be entitled to a minimum registration fee of \$25.00 with a maximum of 15 percent of the total tuition fees or \$100.00, whichever is less.

(4) Three-Day Full Refund Period. Where the provisions of Education Code Section 94312(e) are not applicable, the student or applicant shall be given no less than 3 working days following the day on which enrollment was signed or effective to cancel enrollment and receive refund of all monies paid to institution or its representative, including the refund of registration and instructional materials fees, provided no classes have been attended, lessons completed, or materials used.

(5) Cancellation After Three-Day Period. Where the provisions of Education Code Section 94312(e) are not applicable, and should the student or applicant cancel enrollment more than 3 working days following the day on which enrollment was signed or effective, the institution may retain, as earned, the amount disclosed as a registration fee plus any disclosed and used instructional material costs not inconsistent with its stated policy, provided that:

(A) In resident institutions, the cancellation was made prior to the date upon which the institution is scheduled to start classes or instruction, or

(B) In correspondence institutions, the cancellation was made prior to the date on which the institution received the first completed lesson or prior to the 30th day following the date on which the student or applicant first received materials, whichever occurs first.

(6) Minimum Refund. Should a student cancel enrollment after the time period described in (a)(5)(A) of this section, whether or not he or she was in attendance, or after the time period described in (a)(5)(B) of this section, the student is entitled to a refund of fees and charges, except registration fees and costs of instructional materials consistent with the institution's stated policy, in accordance with the following refund formula:

Percent of attendance time or of course length as related to the total course time or length:

	<i>Minimum Amount of Refund</i>
Up to 10%	90%
10% and up to 25%	75%
25% and up to 50%	50%
50% and over	No Refund

The requirements of this part do not apply to institutions operating under Education Code Section 94310. Those institutions shall develop and use a fair, equitable and positive policy of incremental refund of unused fees and other charges applicable to cancellations.

(7) Fees Which Shall be Refunded. Fees which shall be refunded are:

(A) Any fee or charge collected in error shall be repaid in full.

(B) Any charges collected from a student which the institution holds for the purpose of paying to any other public or private person, firm, organization, or agency, such as for a bond, license application or examination fees, or any similar fees or charges shall, where the student fails to enter the course or withdraws therefrom at any time prior to completion of the course, be refunded in full. Such charges are not subject to any refund if the institution has paid them prior to receipt of cancellation of a contract or enrollment.

(C) All prepaid but unearned fees and other charges paid by a student to the institution shall be refunded to the student if the institution discontinues the class or course for which the student has enrolled.

(8) Refunds to Veterans. A student enrolled under any federal or state veterans' education assistance plan may receive all the refunds of fees in accordance with the law or regulations under which the federal or state veterans' education assistance plan is operated, regardless of any limitation set forth in this section.

(9) Timely Refunds. Refunds must be made by the institution within 30 days of the cancellation.

(b) In addition to inclusion in the catalog or brochure, the institution's refund policy shall be fully, clearly and conspicuously included in each contract of enrollment.

(c) The superintendent may, at his discretion, permit exceptions to an institution's refund policy upon the institution making application to the superintendent for such exception and detailing the reasons. After consideration by the superintendent, he may deny such exception, grant the exception, or order a suitable refund policy.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Section 94312(d) and (e), Education Code.

HISTORY

1. Renumbering and amendment of former Section 18805 to Section 18803, and renumbering and amendment of Section 18809 to Section 18805 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect of subsection (a) filed 2-2-89; operative 2-2-89 (Register 89, No. 8).

§ 18806. Advertising.

NOTE: Authority cited: Sections 94305(b) and 94321(f), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3 and Section 94321(f), Education Code.

HISTORY

1. Renumbering and amendment of Section 18806 to Section 18804 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18807. Disclosures to Consumers.

NOTE: Authority cited: Sections 94305(b) and 94312(h), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3 and Section 94312(h), Education Code.

HISTORY

1. Repealer filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18808. Location of Approval or Authorization.

Authorization or approval shall be required for each principal location of an institution. Within the meaning of this section:

(a) Any location within the accreditation of an institution operating pursuant to Education Code Section 94310.1 is deemed to be a part of the authorized principal location.

(b) Any location of an institution operating pursuant to Education Code Section 94310(b) which does not offer an entire degree program is deemed to be part of the approved principal location.

(c) Any location of an institution operating pursuant to Education Code Section 94310.4 is deemed to be a part of the authorized principal location.

(d) Any location of an institution operating pursuant to Education Code Section 94311 is deemed to be a part of the approved or authorized principal location if:

(1) it is for the purpose of absorbing an enrollment overload that the principal facility cannot accommodate, or

(2) it provides for a special kind of training; provided that such facility has no independent administrative capability, is not identified in any advertising, and is not for the purpose of serving another neighborhood or clientele.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94302(k), 94310, 94311 and 94331, Education Code.

HISTORY

1. New section filed 10-22-85; effective thirtieth day thereafter (Register 85, No. 43). For history of former section, see Register 85, No. 3.
2. Change without regulatory effect of subsections (a) and (c) filed 2-2-89; operative 2-2-89 (Register 89, No. 8).

Subchapter 2. Applications and Affidavits by Institutions

§ 18809. Processing.

(a) Processing and review of any application or affidavit received by the superintendent shall not commence until, in the superintendent's determination, the application/affidavit is complete, all required documentation is included and complete and the required fee is received. Processing and review shall not continue until the applicant or affiant has supplied all additional information as may be requested by the superintendent.

(b) In compliance with Chapter 3 (commencing with Section 15374) of Part 6.7 of Division 3 of Title 2, Government Code, this agency, upon receiving an application/affidavit, shall inform an applicant/affiant in writing within the following maximum state working days:

(1) That such application/affidavit is incomplete or incorrect. A letter detailing the deficiencies shall be mailed or delivered within 10 days from the receipt of applications/affidavits pursuant to Education Code Sections 94310.1, 94311(a), (b), (c), 94315, and 94333, 94311(d)(3), and within 20 days from the receipt of applications/affidavits pursuant to Education Code Sections 94310.2, 94310.3, 94310.4, and 94311(d). Or,

(2) That such application/affidavit is complete, and the applicant/affiant qualifies for the status applied for. The final decision shall be rendered, and the document granting the status applied for shall be mailed or delivered within 10 days from the receipt of applications/affidavits pursuant to Education Code Sections 94310.1, 94311(a), (b), (c), 94315, 94333, and 94311(d)(3) and the procedures specified in statute shall proceed immediately upon the receipt of completed applications/affidavits pursuant to Education Code Sections 94310.2, 94310.3, 94310.4, and 94311(d). Or,

(3) That such application/affidavit is complete, but it is the intention of the superintendent to deny the status applied for.

(A) For applications/affidavits pursuant to Education Code Sections 94310.1, 94311(a), (b), (c), 94315, 94333, and 94311(d)(3), a detailing notice of intention to deny shall be mailed or delivered within 10 days from the receipt of the applications/affidavits. For applications/affidavits pursuant to Education Code Section 94311(d), a decision of intention to deny shall be rendered, and a detailing notice of intention to deny shall be mailed or delivered, within the procedural time periods specified in statute.

(B) A final decision of the superintendent shall be rendered to deny the status applied for or to abandon the denial action and grant the status applied for, and a letter of denial or the document granting the status, as

applicable, shall be mailed or delivered within 190 days from the date of the superintendent's notice of intention to deny.

(c) The statutory committee visitations shall occur within 30 days from the superintendent's impaneling the committee pursuant to Education Code Sections 94310.3 and 94310.4 and within 90 days pursuant to Section 94310.2. Final committee reports shall be forwarded to the superintendent within 30 days following the on-site visitation by the committee pursuant to Sections 94310.2 and 94310.4.

(d) Any appeal arising from an alleged violation to the time periods established in this section shall be resolved by the hearing procedures described in Section 18827.

(e) Should an appeal result in a decision that the appellant's application/affidavit was not processed within the maximum time limits specified in subdivision (c), any and all fees paid with respect to that application/affidavit shall be refunded to the applicant/affiant without granting the status for which application/affidavit was made.

NOTE: Authority cited: Section 15376, Government Code. Reference: Sections 15376 and 15378, Government Code.

HISTORY

1. Renumbering and amendment of former Section 18809 to Section 18805, and renumbering of Section 18816 to Section 18809 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).
2. Amendment filed 10-22-85; effective thirtieth day thereafter (Register 85, No. 43).
3. Change without regulatory effect of subsections (b) and (c) filed 2-2-89; operative 2-2-89 (Register 89, No. 8).

§ 18810. Earned Fees.

The fees charged pursuant to Education Code Section 94331 are earned upon receipt of a complete application, affidavit or other document required by the superintendent as a condition precedent to the approval, authorization or other action for which a fee is charged.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Renumbering of former Section 18817 to Section 18810 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18811. Consent to Inspection.

Application by an institution for approval or authorization to operate is deemed to include the applicant's consent to inspections by representatives of the superintendent and any special committee or team members appointed under Education Code Sections 94310 and 94311. Inspections may be made of any part of the institution's operation and interviews conducted of any person or persons, determined by the superintendent as being relevant to the standards established for the approval or authorization. Under routine circumstances, as determined by the superintendent, an appointment shall be arranged in advance of visitations.

After an approval or authorization of any type is granted, consent to such inspections is deemed to continue and shall include, in addition to those inspectors described above, representatives of the California Department of Justice.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Renumbering of former Section 18818 to Section 18811 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

Subchapter 3. Standards for Evaluating the Institution

Article 1. Institutions Approved Under Education Code Section 94310.2

§ 18814. Standards.

The following standards apply to each institution applying for approval to operate under Education Code Section 94310.2:

(a) Financial Stability. The institution shall maintain assets sufficient to ensure capability of fulfilling the specific program to enrolled students. In all instances, such assets shall be at least as great as those specified in California Education Code Section 94310.4(b) for authorized degree-granting institutions.

(b) Faculty. Faculty resources shall include personnel who possess degrees from the U.S. Department of Education or its successor agency recognized accredited institutions in the proposed degree major field(s) and in sufficient number to provide the proposed educational services.

(c) Course of Study. The educational services shall clearly relate to the proposed degree(s) objectives, be comparable in scope and sequence to minimum standards of comparable degree programs in accredited institutions recognized by the U.S. Department of Education or its successor agency, and shall, in the judgment of the visiting committee, ensure quality educational services to the degree candidate. This requirement shall not be construed to prevent the approval of innovative educational services.

(d) Facilities. Facilities must relate to the defined degree objectives. The stated educational services define the needed facilities, and the visiting committee must express a judgment that the facilities available are sufficient to ensure the student quality educational services.

(e) Degree Requirements. The specified institutional requirements for the degree(s) shall be evaluated against established standards for similar degrees in accredited institutions. The student is to be assured that the degree so approved shall not deviate substantially from all other such degrees as a mark of learning, although the processes in a particular institution may deviate markedly from those occurring in other institutional settings.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Section 94310.2, Education Code.

HISTORY

1. Renumbering and amendment of former section 18823 to section 18814 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect filed 2-2-89; operative 2-2-89 (Register 89, No. 8).
3. Editorial correction of subchapter heading (Register 94, No. 9).

Article 2. Institutions Authorized Under Education Code Section 94310.3

§ 18815. Related Documents.

An institution operating pursuant to Education Code Section 94310.3 may, in addition to granting appropriate degree documents, issue a written or printed document commonly known as a transcript of the student's record of attendance and academic performance.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Repealer of former Section 18815, and renumbering of Section 18825 to Section 18815 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect filed 2-2-89; operative 2-2-89 (Register 89, No. 8).

Article 3. Institutions Approved Under Education Code Section 94311(d)

§ 18816. Objectives Subject to Approval.

In addition to those educational services normally culminating in the awarding of a degree or diploma in a vocational, professional, educational or technological field, any instruction or training offered for the purpose of reviewing material in preparation for an examination administered to obtain a license, registration or other professional, educational, technological or vocational certification is subject to prior approval under Education Code Section 94311(d).

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Renumbering of former Section 18816 to Section 18809, and renumbering of Section 18827 to Section 18816 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18817. Standards Relating to Instructors and Administrators.

(a) Each instructor and administrator applying for a certificate of authorization for service under Education Code Section 94311(d) must meet at least one of the following qualifications:

(1) Possession of a bachelor's degree in the field in which he is to teach from an institution listed as an institution of higher learning by the U.S. Department of Education or its successor agency, or a comparable institution of a foreign country, or the equivalent of such a bachelor's degree or an advanced degree from any such institution.

(2) Possession of a valid adult or secondary school teaching credential or certificate from this or another state authorizing the holder to teach in the field of instruction in which he is to teach at the institution applying for approval.

(3) Five years of successful experience in the profession, trade, industry, or technical occupation in the field in which he is to teach.

(4) Five years of a combination of such experience and education at the postsecondary level.

(5) Possession of a license to teach issued by an appropriate state licensing board or federal agency for the field in which he is to teach.

(6) In the opinion of the Superintendent of Public Instruction, the instructor has adequate and appropriate experience and education and demonstrates his ability to properly instruct in a particular course or subject.

(b) The superintendent shall not consider as qualified any instructor or member of the administrative staff who has pled guilty to or has been found guilty of any crime other than minor traffic offenses or has entered a plea of nolo contendere to a charge thereof, or has committed unscrupulous acts, made material misrepresentations, committed fraud, or is otherwise unfit to engage in the business of private postsecondary education, unless evidence of rehabilitation or mitigation satisfactory to the superintendent is presented. Currently effective court imposed probation is prima facie evidence of lack of rehabilitation. The offense must relate to the effectiveness of that particular person to perform as an instructor or administrator.

(c) Individuals to be added to the administrative and instructional staff shall meet the requirements of this section with personal data submitted to the superintendent. The institution shall notify the superintendent promptly when the services of members of the administrative or instructional staff are terminated or reassigned.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94311(d)(3), (d)(9) and 94312(k)(3), Education Code.

HISTORY

1. Renumbering of former Section 18817 to Section 18810, and renumbering and amendment of Section 18828 to Section 18817 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18818. Standards Applicable to Courses of Instruction in Massage.

Before the superintendent issues any approval of a course or courses of instruction in massage, the following standards shall, in addition to any other applicable standards established by Title 5, California Administrative Code, be met and maintained.

(a) A school of massage shall not permit class or practice sessions of any type to continue later than 10:30 p.m. nor start earlier than 7:00 a.m.

A school of massage shall not, at the same time, operate as a massage parlor or studio. However, a school of massage may be operated simultaneously with and in the same or a contiguous building with a massage studio or parlor, provided that the facilities of the school and studio or parlor are totally separate, clearly delineated and there is neither a sharing of any portion of those respective facilities nor a direct access between them. For purposes of this paragraph, each school shall file with the superinten-

dent a combined detailed floor plan of the school and the massage studio or parlor.

A school of massage may share facilities with a massage studio or parlor at any time, provided that a school so sharing such facilities files with the superintendent a schedule of hours during which it offers classes or practice sessions of any kind, and posts such schedule at the school entrance in full view of anyone who enters. Classes and practice sessions shall not be held at any other time.

(b) Any owner, director, officer, administrator, employee or student of a school, or any other person, is prohibited from performing massage of any kind upon a member of the general public while on the school premises. Students of the school may practice massage only upon an instructor or other student. A "dummy" body maybe used.

(c) Correspondence courses of instruction or a combination of correspondence and residence courses of instruction in massage shall not be approved.

(d) An application for approval shall include evidence that a business license or signed statement of exemption has been obtained by the school from the appropriate local authority.

(e) School records shall reflect actual and verifiable attendance and progress in any massage course for its entire length.

(f) A course of massage shall not be approved for less than 100 hours of instruction, which shall include, but not be limited to Anatomy, Physiology and Hygiene, Massage Theory and History, Ethics of Massage, Business Practices, and a minimum of 75 hours of Demonstration and Practice of Massage Techniques.

(g) No more than 50 percent of the total hours of massage course may be granted for previous equivalent education or training.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300) of Part 59 of Division 10, Title 3, Education Code.

HISTORY

1. Renumbering of former Section 18818 to Section 18811, and renumbering of Section 18829 to Section 18818 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

Subchapter 4. Agents

§ 18822. Agent's Permit.

(a) An agent's permit is required for:

(1) Any person who, at a place away from the institution or site of instruction, accepts application fees or admission fees.

(2) Any person who is employed by, or owns an interest in, the approved or authorized institution and whose primary responsibility is that of recruiting enrollment at a place away from the institution or site of instruction.

(3) Any educational contractor or broker, and a person employed by or in any way associated with such contractor or broker, who, at a place away from the institution or site of instruction, recruits students or accepts application or admission fees.

(4) Any person who receives remuneration or consideration of any kind for providing off-site recruitment services in receiving enrollment for an institution.

(b) A permit is not required for:

(1) Administrators, admissions officers, and faculty of the institution who make informational public appearances.

(2) Any person who, at a place away from the institution or site of instruction, recruits enrollment or accepts application or admission fees exclusively for the particular course or class which that person teaches.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94302(a), (b) and 94333, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18833 to Section 18822 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18823. Standards.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Renumbering and amendment of Section 18823 to Section 18814 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

Subchapter 5. Enforcement

§ 18825. Grounds for Denial, Revocation or Suspension of an Approval or Authorization.

The superintendent may suspend, deny or revoke an approval, or authorization, or Certificate of Authorization for Service, whichever action is timely and appropriate, on the following grounds, as appropriate:

(a) The applicant fails to show that he, she or the proposed institution or its educational services meet the minimum applicable standards and requirements in this Division 21 or in Chapter 3 of Part 59 of Division 10 of the Education Code.

(b) The holder of a conditional or provisional approval fails to meet the requirements for a full or final approval.

(c) The holder fails to conform to any one or more of the representations contained in the application, whether initial or renewal, or fails to operate or maintain qualifications in conformance with any of the applicable standards, requirements and prohibitions in this Division 21 or in Chapter 3 of Part 59 of Division 10 of the Education Code.

(d) The affidavit or evidence submitted by the holder under applicable provisions of Education Code Section 94310.3 is untrue or inaccurate.

(e) The owner or any of the owners, members of the board of directors, officers, administrators, or instructors has pled guilty to or has been found guilty of any crime other than minor traffic offenses or has entered a plea of nolo contendere to a charge thereof, or has committed unscrupulous acts, made material misrepresentations, committed fraud, or is otherwise unfit to engage in the business of private postsecondary education, unless evidence of rehabilitation or mitigation satisfactory to the superintendent is presented. Currently effective court imposed probation is prima facie evidence of lack of rehabilitation.

Any crime, act or omission alleged as grounds for denial, suspension or revocation under this subsection must relate to the educational services of the particular institution or to the welfare of its students, or to the operation of private postsecondary institutions generally.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94302(t), 94305(d), 94310, 94311, 94312, 94330(c) and 94332(3), Education Code.

HISTORY

1. Renumbering of former Section 18825 to Section 18815, and renumbering and amendment of Section 18838 to Section 18825 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect of subsection (d) filed 2-2-89; operative 2-2-89 (Register 89, No. 8).

§ 18826. Grounds for Denial, Revocation, or Suspension of an Agent's Permit.

The superintendent may deny, revoke or suspend an agent's permit, whichever action is timely and appropriate, on the following grounds, as appropriate:

(a) The applicant or holder has practiced or attempted to practice any material deception or fraud in his or her application.

(b) The applicant fails to meet any of those standards and requirements for a permit as set out in Education Code Section 94333.

(c) The holder engages in that conduct prohibited by Education Code Sections 94320, 94321 or 94333.

(d) The applicant or holder has previously had, under California law or under similar laws of any other state, a permit to solicit or sell enrollments in an institution revoked.

(e) The applicant or holder has pled guilty to or has been found guilty of any crime other than minor traffic offenses or has entered a plea of nolo contendere to a charge thereof, or has committed unscrupulous acts, made material misrepresentations, committed fraud, or is otherwise unfit to engage in the business of private postsecondary education, unless evidence of rehabilitation or mitigation satisfactory to the superintendent is presented. Currently effective court imposed probation is prima facie ev-

idence of lack of rehabilitation. The offense must relate to the effectiveness of that particular person to perform as an agent.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94302(a), (b) and 94333, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18839 to Section 18826 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18827. Hearing Procedures.

(a) Any person or institution whose application for an agent's permit, approval, authorization, or Certificate of Authorization for Service has been denied may file a request within 30 calendar days after mailing of the final notice of denial for a hearing. Such request shall be in writing and addressed to the superintendent in care of the Office of Private Postsecondary Education, 721 Capitol Mall, Sacramento, California 95814. The request shall be deemed filed upon receipt by the Office.

(b) All proceedings to determine the validity of actions to deny, suspend or revoke approvals, authorizations, Certificate of Authorization for Service, or agents' permits are governed by the Administrative Procedure Act (commencing with Section 11500 of the Government Code). The Accusation or the Statement of Issues shall be "Before the Superintendent of Public Instruction of the State of California" and filed by the Office of Private Postsecondary Education.

(c) Each case shall be heard by the hearing officer sitting alone.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94330(c), 94332(3), 94333(f) and 94339(a)(2), Education Code.

HISTORY

1. Renumbering of former Section 18827 to Section 18816, and renumbering and amendment of Section 18840 to Section 18827 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18828. Automatic Termination.

(a) An approval or authorization issued by the superintendent automatically terminates when the institution ceases operation, of which fact the institution shall immediately inform the superintendent, or when the institution fails to make application for renewal or pay fees as required. An agent's permit or a Certificate of Authorization for Service terminates automatically when the holder fails to make application for renewal or pay fees as required.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Sections 94311(d), 94330, 94331 and 94333, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18828 to Section 18817, and renumbering and amendment of Section 18841 to Section 18828 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18829. Standards Applicable to Courses of Instruction in Massage.

NOTE: Authority cited: Section 94305(b), Education Code. Reference: Chapter 3 (commencing with Section 94300), Part 59, Division 10, Title 3, Education Code.

HISTORY

1. Renumbering of Section 18829 to Section 18818 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

Article 6. Student Tuition Recovery Fund

§ 18831. Definitions.

(a) "Prepaid." As used in Education Code Sections 94342 and 94343 and this chapter, prepaid describes any amount of money which is paid in advance of receiving educational services or any contractual or other legal obligation to pay for such services.

(b) "Fund." Fund refers to the Student Tuition Recovery Fund.

(c) "Tuition." As used in Education Code Section 94343 and this chapter, tuition is the charge for instruction. In addition to tuition, charges for instructional materials and all other fees shall be included for assessment purposes.

(d) "California Resident." As used in Education Code Section 94342 and this chapter, a California resident is one who is enrolled in an institution which is approved or authorized to operate by the superintendent. With respect to those individuals enrolled in an approved or authorized

correspondence course, only those receiving lessons at a California mailing address are considered to be California residents.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. New Chapter 6 (Sections 18846–18856) filed 11–21–79; effective thirtieth day thereafter (Register 79, No. 47).
2. Repealer of former Section 18831, and renumbering of Section 18846 to Section 18831 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18832. Institutions Subject to Assessment.

The superintendent shall assess approved or authorized institutions which:

(a) Require or accept prepaid tuition and/or charges for instructional materials or any other fees.

(b) Enroll one or more individuals who have made a direct payment to the institution for training offered. Direct payment includes payment by an enrollee or sponsoring person, or payment from a public or private lender on behalf of the individual, but does not include scholarships, grants, subsidies, or any other income which is received by the institution directly from a public or private organization where there is no obligation for an enrollee to pay or repay either the funding organization or the institution.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Repealer of former Section 18832, and renumbering of Section 18847 to Section 18832 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18833. Assessment Base.

Assessments will be based on the total number of California resident enrollees who have made direct payments to an institution, as specified in Section 18832, for training offered during the assessment period. An enrollee, as used in this section, refers to an individual who attends at least one class, or who remains enrolled beyond the 3 day cooling-off period as defined in Section 18805(a)(4). An assessment of ten cents per one hundred dollars shall apply to the actual price charged for tuition and for instructional materials and all other fees at the time of enrollment, regardless of the amount which is prepaid, except that, for courses costing less than one hundred dollars, the assessment shall be five cents.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18833 to Section 18822, and renumbering of Section 18848 to Section 18833 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect (Register 87, No. 30).

§ 18834. Due Date.

An assessment is payable after the 3 day cooling-off period. However, under routine circumstances, as determined by the superintendent, assessments will be paid on a quarterly basis.

In the event of school closure, unpaid assessments shall be remitted to the superintendent within 5 working days following cessation of instruction.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of former Section 18849 to Section 18834 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18835. Maximum Assessment.

An institution may elect to pay an assessment of two dollars per enrollee during any assessment period, which is the maximum assessment specified in Education Code Section 94343, rather than pay the authorized rate of one tenth of one percent. The institution shall not charge a student an amount greater than that paid to the superintendent per enrollee.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of former Section 18850 to Section 18835 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18836. Enrollee Assessment Refund.

The amount paid as a tuition assessment shall be refunded to a student only if enrollment is cancelled within the 3 day cooling-off period in accordance with Section 18805(a)(4). Otherwise the amount paid as a tuition assessment is retainable and payable to the superintendent.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of former Section 18851 to Section 18836 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect (Register 87, No. 30).

§ 18837. Application for Payment from the Fund.

The superintendent shall consider a request for payment providing the applicant:

(a) Is a California resident.

(b) Is enrolled in an institution which has met the criteria specified in Section 18832 for participating in the fund and which has ceased operation, as determined by the superintendent.

(c) Has made a direct payment to an institution for training, as specified in Section 18832.

(d) Has unused prepaid tuition to his or her credit. Unused, as used in this subsection and Section 18838, refers to that portion of instruction and related goods and services never received as a result of school closure but for which direct payment of prepaid tuition has been made. With respect to any goods received, only those which are not useful independently of the instruction may be considered.

(e) Has requested settlement from the closing institution which has not been resolved to the applicant's satisfaction.

(f) Makes application within 60 days following the date the institution ceases operation.

NOTE: Authority cited: Section 94344, Education Code. Reference: Section 94342, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18852 to Section 18837 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).
2. Change without regulatory effect of subsections (b)–(d) filed 2–2–89; operative 2–2–89 (Register 89, No. 8).

§ 18838. Payments from the Fund.

(a) The superintendent shall conduct such investigation and verification as deemed necessary to establish the validity of an application for payment or to deny an application.

(b) Any payment from the fund shall be for the entire amount of unused prepaid tuition as determined by the superintendent, minus any actual or forthcoming refund from any other source.

NOTE: Authority cited: Section 94344, Education Code. Reference: Section 94342, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18838 to Section 18825, and renumbering and amendment of Section 18853 to Section 18838 filed 1–15–85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18839. Alternative Method for Exemption from Participation in the Fund.

The superintendent shall exempt any institution from participating in the fund which maintains an acceptable alternative method of protecting students. An institution is responsible for paying assessments until an exemption is granted. Plans should be submitted at least ninety days prior to the starting date of an assessment period to be considered as exempt from that and future assessment periods. An acceptable alternative plan shall satisfy the following criteria:

(a) Respect individual choice and allow for financial settlement when a teach-out is neither acceptable, reasonable, nor convenient to the student.

(b) Provide for settlement regardless of reason for school closure.

(c) Describe an application process, define the criteria for evaluating claims, and outline an appeals process.

(d) Establish an adequate fund immune from creditor claims for purpose of payment of claims.

(e) Specify whether financial settlement, if applicable, is limited in any respect.

Participation in an acceptable alternative plan shall not be terminated until an institution has made its initial payment into the fund.

NOTE: Authority cited: Section 94344, Education Code. Reference: Section 94343, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18839 to Section 18826, and renumbering and amendment of Section 18854 to Section 18839 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18840. Notification of Enrollees.

The institution shall expressly inform each enrollee about the details of the fund or of the institution's own alternative fund at the time of enrollment on forms prescribed by the superintendent.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering and amendment of former Section 18840 to Section 18827, and renumbering of Section 18855 to Section 18840 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18841. Automatic Termination.

HISTORY

1. Renumbering and amendment of Section 18841 to Section 18828 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18846. Definitions.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18846 to Section 18831 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18847. Institutions Subject to Assessment.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18847 to Section 18832 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18848. Assessment Base.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18848 to Section 18833 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18849. Due Date.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18849 to Section 18834 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18850. Maximum Assessment.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18850 to Section 18835 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18851. Enrollee Assessment Refund.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18851 to Section 18836 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18852. Application for Payment from the Fund.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering and amendment of Section 18852 to Section 18837 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18853. Payments from the Fund.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering and amendment of Section 18853 to Section 18838 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18854. Exempted Institutions.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering and amendment of Section 18854 to Section 18839 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18855. Notification of Enrollees.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Renumbering of Section 18855 to Section 18840 filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

§ 18856. Administration of the Fund.

NOTE: Authority cited: Section 94344, Education Code. Reference: Sections 94342 and 94343, Education Code.

HISTORY

1. Repealer filed 1-15-85; effective thirtieth day thereafter (Register 85, No. 3).

Chapter 22. Veterans Education

Subchapter 1. Approval of Nonaccredited Resident Courses in Educational Institutions

NOTE: Specific authority cited for Division 22: Veterans' Readjustment Benefits Act of 1966.

HISTORY

1. New Chapter 1 (§§ 19300, 19301, 19304, 19306, 19307, 19310, 19312, 19313, 19315-19318) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Repealer of Chapter 1 (Sections 19300-19318, not consecutive) filed 7-31-84; effective thirtieth day thereafter (Register 84, No. 31). For prior history, see Register 77, No. 39.

Subchapter 2. Approval of Correspondence Courses

HISTORY

1. New Chapter 2 (§§ 19320, 19321, 19323, 19325-19331) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Repealer of Chapter 2 (Sections 19320-19331, not consecutive) filed 7-31-84; effective thirtieth day thereafter (Register 84, No. 31). For prior history, see Register 77, No. 39.

Subchapter 3. Approval of Accredited Resident Courses in Educational Institutions

HISTORY

1. New Chapter 3 (§§ 19335-19343, and 19345) filed 2-24-70; effective thirtieth day thereafter (Register 70, No. 9).
2. Repealer of Chapter 3 (Sections 19335-19345, not consecutive) filed 7-31-84; effective thirtieth day thereafter (Register 84, No. 31). For prior history, see Register 77, No. 39.

Chapter 23. Miscellaneous Provisions

Subchapter 1. Instructional Television

Article 1. Classroom Instructional Television

§ 19500. Scope.

This article relates to instructional television as established pursuant to Education Code Sections 41920, 51870 and 51871.

NOTE: Authority cited for Chapter 1: Sections 33031 and 51874, Education Code. Issuing agency: Superintendent of Public Instruction.

HISTORY

1. New Chapter 1 (§§ 19500–19509) filed 12–18–69; effective thirtieth day thereafter (Register 69, No. 51).
2. Repealer of Chapter 1 (§§ 19500–19509) and new Chapter 1 (§§ 19500–19506) filed 1–23–76; effective thirtieth day thereafter (Register 76, No. 4).
3. Amendment of section and NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 19501. Definitions.

As used in Education Code Sections 41920, 51870 and 51871, and in these regulations:

(a) “Instructional Television,” “Educational Television,” and “Television Broadcasts” mean television programs used as integral parts of the instructional program included in the course of study adopted by the proper authority.

(b) “Pupils of the district present in the classroom and instructed by such instructional television programs,” means students who are members of at least one class in which instructional television meeting the requirements of this article is provided pursuant to the provisions of Education Code Sections 51870 and 51871.

(c) “Closed-Circuit Instructional Television,” and “Instructional Television Fixed Service” (2500 megahertz) refer to an instructional television facility which includes a central distribution system.

(d) A “production agency” is the agency which produces any instructional television programs.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 19502. Application for Approval.

A school district, pursuant to Education Code Section 51871, or county superintendent of schools, pursuant to Education Code Section 51870, shall apply to the Superintendent of Public Instruction for approval of a plan to procure television broadcasts or closed-circuit television programs. The application shall be on a form supplied by the Superintendent of Public Instruction and shall be filed before June 1 of the school year preceding the year to which the plan applies.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 19503. School District Claim for Allowance.

(a) Between July 1 and August 1 following the close of the school year in which a school district participated in a program for instructional television pursuant to Education Code Section 51871, the district, using a form supplied by the Superintendent of Public Instruction, shall file with the county superintendent a claim for allowance. The claim for allowance shall designate the school year in which the program was conducted and shall include certification that:

(1) The Superintendent of Public Instruction approved the district plan to provide instructional television services during the designated school year, and that the plan was carried out.

(2) The claimant will continue to provide for instructional television during the school year following the designated year.

(3) The instructional television services certified in (1) were an integral part of the course of study approved by the proper authority.

(4) The number of pupils of the district present in the classroom and instructed by such television programs during the designated school year pursuant to this article is the number shown on the claim. (No pupil shall be counted more than once per school year.)

(5) The total cost (exclusive of capital outlay expenditures) to the district for providing such instructional television programs is the cost shown on the claim.

(b) As soon as possible after receipt of the completed district claim for allowance, but not later than August 15 of that year, the county superintendent shall review, approve, and forward it to the Superintendent of Public Instruction.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 19504. County Superintendent’s Claim for Allowance.

Between July and August 15 following the close of the school year, a county superintendent shall file with the Superintendent of Public Instruction a claim for allowance for television services which he provided pursuant to Education Code Section 51870 during the school year just closed to schools and classes that he maintained. The claim shall be on the form and certified as specified in Section 19503.

HISTORY

1. Amendment filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).

§ 19505. Planning of Programs.

Any instructional television program shall be planned or selected by the school district or by the county superintendent of schools in cooperation with participating school districts or county superintendents of schools.

§ 19506. Study Guides.

The county superintendent or the governing board of the school district shall make available to teachers or students who are to use any television program in the educational program of such school, appropriate guides and/or related printed material for use with such program in advance of the showing of such program.

Subchapter 2. California Maritime Academy

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HISTORY

1. Repealer of Chapter 2 (Section 19530) filed 12–23–74; effective thirtieth day thereafter (Register 74, No. 52). For prior history, see Register 69, No. 51.

*See Division 7, Title 5, Administrative Code.

Subchapter 3. Surplus Property

Article 1. Direct Shipment of Food Commodities

§ 19540. Direct Shipment of Commodities Donated by the United States Department of Agriculture.

Any party electing to take direct delivery of food commodities from the U.S. Department of Agriculture pursuant to Section 12114 of the Education Code, must demonstrate that party’s capability for the proper handling, storage, and distribution of such food, in accordance with Title 7 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 250.6

- (o) Personnel,
- (p) Facilities,

- (q) Records,
- (r) Reports,
- (s) Right of inspection and audit,
- (t) Complaints, and
- (u) Demurrage.

The quantity of commodities to be made available for direct shipment shall be determined in accordance with Title 7 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 250.4.

Consignees of carload shipments shall completely unload from such cars, at their expense, all dunnage, debris, or other foreign matter connected with the inbound shipment so as to return rail freight cars to the carrier in a condition for loading by another shipper without further unloading.

Demurrage or other charges which accrue after a car or truck has been placed for unloading by the delivering carrier, or which accrue because placement of a car or truck is prevented, shall be borne by the recipient agency, except that demurrage or other charges shall be borne by the U.S. Department of Agriculture where such charges accrue because of actions by the Department of Agriculture and without the fault or negligence of the recipient agency.

When recipient agencies elect to take direct delivery of commodities from the U.S. Department of Agriculture, commodities will no longer be made available to them from the state agency.

NOTE: Authority cited for Chapter 3: Section 12114, Education Code.

HISTORY

1. New section filed 5-18-71 as an emergency; effective upon filing (Register 71, No. 21).
2. Certificate of Compliance—Sec. 11422.1, Gov. Code, filed 7-8-71 (Register 71, No. 28).
3. Amendment of section and NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).

Subchapter 4. Performance Based Accountability System

§ 19600. Definitions.

For the purpose of local education agency data collection and reporting under the Performance Based Accountability (PBA) System established pursuant to Unemployment Insurance Code Section 15037.1, the following terms shall have these meanings:

(a) "Participant" means a student who is enrolled in a work force preparation program who authorizes the release of his or her social security number and other personal information for use in the PBA System as specified on the PBA Privacy Notice and Student Consent Form (June 1998).

(b) "PBA System" means the comprehensive performance based accountability system established pursuant to Unemployment Insurance Code Section 15037.1 as an education and job training report card program to assess the accomplishments of California's work force preparation system.

(c) "PBA Privacy Notice and Student Consent Form (June 1998)" means the form required by Unemployment Insurance Code Section 15037.1(e), as modified by the Superintendent of Public Instruction pursuant to Unemployment Insurance Code Section 15037.1(f), which is to be distributed to all students enrolled in work force preparation programs operated by local education agencies and which informs students of the purposes and authority for soliciting the student's social security number, the student's right to consent or decline to participate, and the types of personal information about each student who authorizes release of the data that will be provided to the California Department of Education for transmission to the State Job Training Coordinating Council (SJTCC) or its agent for use in the PBA System.

(d) "PBA Student Data Profile (June 1998)" means the report of personal information on each student who agrees to participate in the PBA System that is submitted to the California Department of Education for transmission to the SJTCC or its agent. In addition to name, birth date,

gender, social security number, and the dates of enrollment in and departure from the work force preparation program, the PBA Student Data Profile (June 1998) will report the following information, as defined, on each participant:

(1) "Amount of service/training" means the number of hours of instruction or training completed by the participant while enrolled in the work force preparation program.

(2) "Basic skills deficient" means the participant is an individual (other than one with disabilities)

(A) who demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of student's basic skills.

(3) "Disability status" means whether the participant

(A) has been evaluated according to special education requirements contained in Part 30 (commencing with Section 56000) and meets eligibility criteria described in Section 56026 of the Education Code; or

(B) is considered disabled under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794).

(4) "Dislocated worker" means an individual who

(A) has been terminated or laid off or has received a notice of termination or layoff from employment, is eligible or has exhausted his or her entitlement to unemployment compensation, and is unlikely to return to his or her previous industry or occupation; or

(B) has been terminated or received a notice of termination of employment as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise; or

(C) is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which he or she resides, including older individuals who may have substantial barriers to employment by reason of age; or

(D) was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(5) "Displaced homemaker" means an individual who

(A) is an adult; and

(B) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills; and

(C) is one of the following:

1. has been dependent on public assistance or on the income of a relative but is no longer supported by that income; or

2. is a parent whose youngest dependent child will become ineligible to receive assistance under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code (known as "CalWORKS") or any successor program, within two (2) years of the parent's enrollment in this work force preparation program; or

3. is unemployed or under employed and is experiencing difficulty in obtaining any employment or suitable employment as appropriate; or

4. is described in (A) and (B) of this definition and is a criminal offender.

(6) "Economically disadvantaged" means an individual who:

(A) is eligible for aid under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code (known as "CalWORKS"), or any successor program; or

(B) is eligible for benefits under the Food Stamp Act of 1977 (7 U.S.C. § 2011); or

(C) meets financial eligibility standards for the MediCal Program as established in Chapter 7 of the Welfare and Institutions Code (commencing with Section 14000); or

(D) is eligible for participation in programs assisted under Title II of the Job Training Partnership Act (29 U.S.C. § 1603).

(7) "Education attainment at program entry" means the number of years of formal schooling an individual completed prior to entry into the work force preparation program.

(8) "Ethnicity" means the ethnic category which most closely reflects the individual's recognition in the community. The categories to be collected are:

(A) American Indian or Alaska Native: a person having origins in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

(B) Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.

(C) Pacific Islander: a person having origins in any of the original peoples of the Polynesian, Micronesian, or Melanesian islands (excludes the Philippine Islands).

(D) Filipino: a person having origins in any of the original peoples of the Philippine Islands.

(E) Hispanic: a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin—regardless of race.

(F) Black, not of Hispanic Origin: a non-Hispanic person having origins in any of the Black racial groups of Africa.

(G) White, not of Hispanic Origin: a non-Hispanic person having origins in any of the original peoples of Europe, North Africa, or the Middle East; e.g., England, Portugal, Egypt, and Iran.

(9) "Learner results" means outcomes from participating in the work force preparation program which include, but are not limited to, the following: received a certificate of completion, competency, or employability; obtained full-time employment; received a promotion in current employment situation; upgraded skills for current employment; enrolled in a community college; enrolled in a four-year college or university; entered advance training at an institution other than higher education; and entered an apprenticeship program.

(10) "Limited-English-proficient" means an individual

(A) 1. whose native language is a language other than English; or
2. who came from an environment where a language other than English is dominant; or

3. who is an American Indian or an Alaskan Native and came from an environment where a language other than English had a significant impact on his or her level of English language proficiency; and

(B) who by reason thereof, has sufficient difficulty speaking, reading, writing, or understanding the English language to deny the individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

(11) "Non-traditional training" means education or training to prepare the student for employment in an occupational area in which twenty-five (25) percent or fewer of the job holders are the same sex as the student.

(12) "Program completer" means an individual who has completed a work force preparation program and has been granted a certificate of completion, competency, or employability.

(13) "Program leaver" means an individual who enrolled in a work force preparation program and who attended 20 or more course hours but discontinued attendance without completing the program requirements.

(14) "Reasons for leaving prior to completion" includes but is not limited to the following: obtained employment, moved from area, schedule conflict, transportation problems, child care needs, family issues, personal health problems, lack of interest, public safety concerns, administratively separated from program.

(15) "Type of service" means the services received while in the work force preparation program. The term includes but is not limited to the following:

1. assessment/counseling
2. personal development training
3. counseling/career development
4. job development/job search assistance
5. occupational skills training
6. on-the-job training
7. work experience
8. pre-employment skills/job readiness training.

(16) "Type of training" means one or more of the work force preparation programs offered by regional occupational centers/programs or adult education programs.

(17) "Veteran status" means whether the student is an individual who has served in the armed forces of this country for at least 181 consecutive days since January 31, 1995, and who has been discharged or released under conditions other than dishonorable, but does not include any person who served only in auxiliary or reserve components of the armed forces whose services therein did not exempt him or her from the operation of the Selective Training and Services Act of 1940 (54 Stat. 885).

(e) "Work force preparation program" means a course of study which has as its primary goal the development of knowledge and skills that enable the student to obtain paid employment upon the successful completion of the course of study, and includes

(1) vocational education or training offered by an adult school or program operated by a school district or county office of education, or by regional occupational centers or programs, which require a student to attend classes a minimum of ten (10) hours a week for regional occupational centers or programs or twelve (12) hours a week for adult schools or programs while completing the course requirements and which provide a certificate of completion, competency, or employability upon the successful completion of the course; and

(2) apprenticeship programs in which a person has entered into an "apprentice agreement" with an employer or program sponsor; and the term of the apprenticeship for each apprenticeable occupation has been approved by the Chief of the Division of Apprenticeship Standards, Department of Industrial Relations, and provides for no less than 2,000 hours of reasonably continuous employment for the apprentice and provides for his or her participation in an approved program of training through employment and through education in related and supplemental subjects.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 56026, Education Code; Section 15037.1, Unemployment Insurance Code; Sections 11200 and 14000, Welfare and Institutions Code; Section 2011, U.S. Code Title 17; and Sections 794 and 1603, U.S. Code Title 29.

HISTORY

1. New subchapter 4 (sections 19600–19601) and section filed 7–3–98 as an emergency; operative 7–3–98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–2–98 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7–3–98 order transmitted to OAL 10–13–98 and filed 11–23–98 (Register 98, No. 48).

§ 19601. PBA System Reporting Procedures.

(a) All students who enroll in any work force preparation program as defined in subdivision (e) of Section 19600 that is offered by school districts, county offices of education, or regional occupational centers/programs shall be provided a copy of the PBA Privacy Notice and Student Consent Form (June 1998) at the time of enrollment.

(b) The work force preparation program administrator, or his or her designee, shall obtain from each enrolled student a signed PBA Privacy Notice and Student Consent Form (June 1998) that indicates the student's choice of whether to authorize or not authorize release of his or her social security number and other personal data to the California Department of Education for transmission to the SJTCC or its agent for use in the PBA System. If any student declines to sign the PBA Privacy Notice and Student Consent Form (June 1998), the program administrator, or his or her designee, shall fill in the student's name and, in the space for student signature, write "declined" or words to that effect.

(c) For each student who agrees to participate in the PBA System, and who has attended classes for 20 or more course hours, the work force preparation program administrator, or his or her designee, shall compile the information required on the PBA Student Data Profile (June 1998).

(d) On or before August 31 of each year, the superintendent of the school district or county office of education, or the administrator of the regional occupational center/program, or his or her designee, shall report the personal information required on the PBA Student Data Profile (June

1998) for each student enrolled in the prior school year who has agreed to participate in the PBA System and shall certify to the best of his or her knowledge and belief that the information being reported is accurate and complete.

(e) Each signed PBA Privacy Notice and Student Consent Form (June 1998), whether the student authorized or did not authorize release of personal data, shall be retained by the school district, county office of education, or regional occupational center/program pursuant to the requirements of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and Chapter 6.5 of Part 27 (commencing with section 49060) of the California Education Code.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49060, Education Code; Section 15037.1, Unemployment Insurance Code; Sections 11200 and 14000, Welfare and Institutions Code; and Section 1232g, U.S. Code Title 20.

HISTORY

1. New section filed 7-3-98 as an emergency; operative 7-3-98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 11-2-98 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 7-3-98 order transmitted to OAL 10-13-98 and filed 11-23-98 (Register 98, No. 48).

Chapter 24. Library Services Provided by the State

NOTE: Authority cited for Chapter 1: Sections 19304 and 19320, Education Code. Issuing agencies: State Board of Education and Superintendent of Public Instruction. Reference: Sections 19320 and 19330, Education Code.

HISTORY

1. Editorial renumbering of Chapter 2, Subchapter 1, to Division 24, Chapter 1 (Register 69, No. 51). For prior history see Register 66, No. 2.
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of subsection (c) filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).
4. Editorial renumbering of Division 1, Chapter 24 (sections 20000-20400) to Division 2, Chapter 1, and editorial renumbering of former Division 2, Chapter 1 (Sections 20410-20426) to new Division 2, Chapter 2 (Register 2001, No. 45). For prior history, see Register 90, No. 50.

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**CALIFORNIA
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Title 5. Education

Division 1.5. Education Audit Appeals Panel

Vol. 6

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Division 1.5. Education Audit Appeals Panel

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Division 1.5. Education Audit Appeals Panel

Chapter 1. General Provisions

§ 19800. Definitions.

The following definitions shall apply to these regulations:

(a) "Final audit report" means:

(1) for an annual audit conducted pursuant to Education Code Section 41020, the report that has been accepted by the Controller pursuant to Education Code Section 14504, and

(2) for any other audit or review conducted by or for a governmental agency that includes one or more apportionment significant exceptions requiring repayment, the report issued following an opportunity to provide a written response to a draft report;

(b) "Panel" means the Education Audit Appeals Panel.

(c) "Parties to the appeal" means the local education agency that is pursuing an appeal to the Panel, the Controller, and any applicant(s) allowed to intervene pursuant to Government Code Section 11440.50.

(d) "Summary review" means the voluntary, informal, summary appeals process set forth in Education Code Section 41344.1(d).

NOTE: Authority cited: Section 41344.1, Education Code. Reference: Sections 14504, 41020, 41344 and 41344.1, Education Code.

HISTORY

1. New section filed 5-10-2004; operative 5-10-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

§ 19801. Quorum; Majority Vote; Limitations on Public Comments.

(a) A quorum shall be two of the three members then constituting the Panel.

(b) All decisions of the Panel shall be by majority vote of the three members then constituting the Panel.

(c) Public comment on each item of a Panel agenda shall be limited to 3 minutes per speaker, provided that the Panel may extend this limit by a uniform amount per speaker.

NOTE: Authority cited: Section 41344.1, Education Code. Reference: Section 41344.1, Education Code.

HISTORY

1. New section filed 5-10-2004; operative 5-10-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

§ 19802. Education Audit Appeals Panel — Conflict of Interest Code.

The Political Reform Act, Government Code Section 81000, et seq., requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs., Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs., Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, and the place of filing is specified, shall constitute the conflict of interest code of the Education Audit Appeals Panel (agency).

Designated employees shall file statements of economic interests with the agency, which shall make the statements available for public inspection and reproduction. Upon receipt of the statements of the members of the Panel or their designees and of the Executive Officer, the agency shall make and retain copies of the statements and send the originals to the Fair Political Practices Commission.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300-87302 and 87306, Government Code.

HISTORY

1. New division 1.5 and chapter 1 (section 19802) and new section and Appendix filed 3-11-2004; operative 4-10-2004. Approved by Fair Political Practices Commission 12-8-2003. Submitted to OAL for printing only (Register 2004, No. 11).

2. Amendment of Appendix filed 6-5-2007; operative 7-5-2007. Approved by Fair Political Practices Commission 4-30-2007 (Register 2007, No. 23).

Appendix

<i>Designated Positions</i>	<i>Disclosure Category</i>
Members of the Panel (includes designees)	1
Executive Officer	1
Employees in all legal classifications	1
Employees in Staff Services Analyst and Associate Governmental Program Analyst positions who may affect decisions regarding equipment, goods, or services	1
All contracted consultants	*

Disclosure Category I:

Persons in this category must report all investments, business positions, and income, including gifts, loans, and travel payments, from sources that provide leased facilities, goods, equipment, vehicles, machinery, or services, including training or consulting services, of the type utilized by the Education Audit Appeals Panel, as well as all sources of income, excluding salary, from local education agencies authorized in statute to pursue appeals before the Education Audit Appeals Panel.

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although in a "designated position," is hired to perform a range of duties that is limited in scope and hence is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Chapter 2. Summary Review; Appeals

§ 19803. Request for Summary Review Filing; Form of Request for Summary Review; Withdrawal of Request for Summary Review.

(a) To request summary review, a local education agency shall, within 30 days of receipt of the final audit report, file a written Request for Summary Review with the Executive Officer of the Panel and shall:

(1) identify each finding for which summary review is requested; and
(2) set forth the basis for the local education agency's claim, as to each disputed finding, that it was in substantial compliance, as set forth in Education Code Section 41344.1(c).

(b) A local education agency may withdraw a Request for Summary Review at any time prior to issuance of a determination by notifying the Executive Officer of the Panel in writing.

NOTE: Authority cited: Section 41344.1, Education Code. Reference: Section 41344.1, Education Code.

HISTORY

1. New chapter 2 (sections 19803-19805) and section filed 5-10-2004; operative 5-10-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

§ 19804. Appeal Filing; Form of Notice of Appeal; Withdrawal of Appeal.

(a) To present an appeal to the Panel, a local education agency shall, within 60 days of receipt of the final audit report or within 30 days of receipt of the determination of a summary review, file a written Notice of Appeal with the Executive Officer of the Panel, identifying each finding being appealed:

(b) A local education agency may withdraw an appeal at any time prior to issuance of a decision by the Panel. The local education agency shall give prompt written notice of the withdrawal:

(1) to the Executive Officer of the Panel.

(2) if the appeal is pending before the Office of Administrative Hearings.

(A) to the administrative law judge assigned responsibility for the matter, or

(B) if the matter has not been assigned to a particular administrative law judge, to the Director of the Office of Administrative Hearings, and

(3) to all parties to the appeal.

NOTE: Authority cited: Section 41344.1, Education Code. Reference: Sections 41344 and 41344.1, Education Code.

HISTORY

1. New section filed 5-10-2004; operative 5-10-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

§ 19805. Intervention.

Government Code Section 11440.50, concerning intervention, grant of motion, and conditions, shall apply to appeal proceedings of the Panel.

NOTE: Authority cited: Section 41344.1, Education Code. Reference: Section 41344.1, Education Code.

HISTORY

1. New section filed 5-10-2004; operative 5-10-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

Chapter 3. Audits of California K-12 Local Education Agencies

Article 1. General Provisions

§ 19810. Scope.

These regulations constitute the audit guide, *Standards and Procedures for Audits of California K-12 Local Educational Agencies*, that shall be used in the performance of the audits required by Education Code Section 41020. These regulations do not provide a complete manual of procedures; auditors must exercise professional judgment.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New chapter 3 (articles 1-3, sections 19810-19831), article 1 (sections 19810-19811) and section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19811. Qualifications of Auditors.

(a) Each audit shall be made by a certified public accountant or a public accountant, licensed by the California Board of Accountancy, and selected by the local education agency from a directory of certified public accountants and public accountants deemed by the Controller as qualified to conduct audits of local education agencies published by the Controller not later than December 31 of each year.

(b) Except as provided in subdivision (d) of Education Code Section 41320.1, it is unlawful for a public accounting firm to provide audit services to a local educational agency if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local educational agency in each of the six previous fiscal years. The Education Audit Appeals Panel may waive this requirement if the panel finds that no otherwise eligible auditor is available to perform the audit.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Section 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19812. Auditing Standards.

Audits shall be conducted in accordance with auditing standards generally accepted in the United States of America, the standards set forth in *Government Auditing Standards* issued by the Comptroller General of the United States, and the provisions of this chapter.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14503 and 41020, Education Code.

HISTORY

1. New article 2 (sections 19812-19814) and section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
3. Amendment moving section 19812 from article 2 to article 1 filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19813. Materiality Levels for Compliance Auditing.

Each program for which Average Daily Attendance is reported to the California Department of Education for apportionment purposes must be audited for compliance with specific requirements of law, as further set forth in this article, if the number of units of Average Daily Attendance reported is material as shown in the following table:

<i>Local Education Agency's Total Reported Average Daily Attendance (ADA)</i>	<i>Number of ADA Constituting Materiality for Each Program</i>
1 – 1,000	10 or more
1,001 – 2,500	20 or more
2,501 – 10,000	50 or more
More than 10,000	100 or more

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
3. Amendment of subsections (e) and (e)(2) filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-6-2005 order transmitted to OAL 5-24-2005 and filed 6-20-2005 (Register 2005, No. 25).
5. Renumbering of section 19813 to section 19815 and renumbering of section 19815 to section 19813 filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19814. Auditor Judgment.

For each state compliance requirement, the auditor shall follow the procedures included in this audit guide, unless, in the exercise of his or her professional judgment, the auditor determines other procedures are more appropriate in particular circumstances.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Amendment of subsections (e) and (l) filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3-15-2004 order, including amendment of subsection (e), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
4. Change without regulatory effect amending subsection (e) filed 6-30-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 27).
5. Amendment of subsections (e) and (l) refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.

6. Certificate of Compliance as to 9–30–2004 order, including further amendment of subsection (e), transmitted to OAL 12–9–2004 and filed 1–19–2005 (Register 2005, No. 3).
7. Amendment of first paragraph, redesignation and amendment of second paragraph of subsection (e) as subsection (e)(1), new subsection (e)(2) and amendment of subsection (f) filed 2–10–2005 as an emergency; operative 2–10–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–10–2005 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (d), (e)(1) and (e)(2), new subsection (e)(3), amendment of subsection (k) and amendment of NOTE filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 2–10–2005 order, including 5–6–2005 emergency amendments, transmitted to OAL 5–24–2005 and filed 6–20–2005 (Register 2005, No. 25).
10. Certificate of Compliance as to 5–6–2005 order transmitted to OAL 8–26–2005 and filed 10–11–2005 (Register 2005, No. 41).
11. Amendment of subsections (e)(3) and (i), new subsection (j), subsection relettering and amendment of newly designated subsection (k) filed 2–17–2006 as an emergency; operative 2–17–2006 (Register 2006, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–19–2006 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 2–17–2006 order, including renumbering of section 19814 to section 19816 and renumbering of section 19816 to section 19814, transmitted to OAL 4–27–2006 and filed 6–9–2006 (Register 2006, No. 23).

Article 2. Audit Reports

§ 19814.1. Applicability of Audit Procedures by Audit Year.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503, 41020 and 47634.2, Education Code.

HISTORY

1. New section filed 6–17–2004 as an emergency; operative 6–17–2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–15–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9–30–2004 as an emergency; operative 10–16–2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2–14–2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9–30–2004 order, including amendment of subsection (b), transmitted to OAL 12–9–2004 and filed 1–19–2005 (Register 2005, No. 3).
4. Amendment filed 2–10–2005 as an emergency; operative 2–10–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–10–2005 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section and NOTE filed 5–6–2005 as an emergency; operative 5–6–2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–6–2005 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 2–10–2005 order, including 5–6–2005 emergency amendments, transmitted to OAL 5–24–2005 and filed 6–20–2005 (Register 2005, No. 25).
7. Certificate of Compliance as to 5–6–2005 order, including further amendment of subsection (a)(2), transmitted to OAL 8–26–2005 and filed 10–11–2005 (Register 2005, No. 41).
8. Amendment of subsection (a)(3) filed 2–17–2006 as an emergency; operative 2–17–2006 (Register 2006, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–19–2006 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 2–17–2006 order, including renumbering and amendment of section 19814.1 to section 19816.1, transmitted to OAL 4–27–2006 and filed 6–9–2006 (Register 2006, No. 23).

§ 19815. Report Components.

The report of each audit performed pursuant to Education Code Section 41020 shall be as follows, except that the subelements of (d) may be in any order among themselves:

- (a) Introductory Section.
 - (1) Table of Contents for the audit report.
 - (2) Other information as deemed appropriate by the auditee.
- (b) Financial Section.

- (1) Independent Auditor's Report.
- (2) Management's Discussion and Analysis.
- (3) Basic Financial Statements.
- (4) Notes to the Basic Financial Statements.
- (c) Required Supplementary Information.

Schedule of budgetary comparison data for the General Fund and any major special revenue funds that have legally adopted annual budgets, disclosing excesses of expenditures over appropriations, if any, in individual funds presented in the budgetary comparison.

- (d) Supplementary Information.
 - (1) Local Education Agency Organization Structure.
 - (2) Schedule of Average Daily Attendance.
 - (3) Schedule of Instructional Time.
 - (4) Schedule of Financial Trends and Analysis.
 - (5) Reconciliation of Annual Financial and Budget Report With Audited Financial Statements.
 - (6) Optionally, Combining Statements and Individual Fund Statements and Schedules.
 - (7) Schedule of Charter Schools.
 - (8) If required as set forth in the edition of OMB Circular A–133 applicable to the year being audited, Schedule of Expenditures of Federal Awards.

- (9) Notes to Supplementary Information, if required.
- (e) Other Independent Auditor's Reports.

(1) Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*.

- (2) Report on State Compliance.
- (3) If required as set forth in the edition of OMB Circular A–133 applicable to the year being audited, Report on Compliance With Requirements Applicable to Each Major Program and Internal Control Over Compliance in Accordance With OMB Circular A–133.

- (f) Findings and Recommendations.
 - (1) Schedule of Findings and Questioned Costs.
 - (2) Schedule of Prior Audit Findings.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New article 3 (sections 19815–19831) and section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).
3. Renumbering of section 19815 to section 19813 and renumbering of section 19813 to section 19815 filed 6–9–2006; operative 6–9–2006 (Register 2006, No. 23).
4. New subsection (d)(1), subsection renumbering and amendment of subsection (e)(1) filed 6–12–2006 as an emergency; operative 6–12–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–10–2006 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–12–2006 order transmitted to OAL 9–20–2006 and filed 9–29–2006 (Register 2006, No. 39).

§ 19816. Definitions.

The content of the audit report sections and subsections specified in Section 19815 is as described in the *Codification of Statements on Auditing Standards*, published by the American Institute of Certified Public Accountants, the *Codification of Governmental Accounting and Financial Reporting Standards* published by the Governmental Accounting Standards Board (GASB), or *Government Auditing Standards* published by the Comptroller General of the United States, in the respective editions applicable to the fiscal year being audited, or as defined in one of the following:

- (a) “*Government Auditing Standards*” means the publication by the Comptroller General of the United States, United States General Accounting Office, originally issued in 1972 and revised from time to time, commonly known as the “Yellow Book,” that contains standards for audits of government organizations, programs, activities, and functions and

that is referenced in Education Code sections 14501, 14503, and 41020(b)(4).

(b) "Local Education Agency Organization Structure" means a description in the Supplementary Information section that sets forth the following information, at a minimum:

(1) The date on which the local education agency was established, and for charter schools the date and granting authority of each charter;

(2) The date and a general description of any change during the year audited in a school district's boundaries;

(3) The numbers by type of schools in the local education agency;

(4) The names, titles, terms, and term expiration dates of all members of the governing board;

(5) The names, with their titles, of the superintendent, chief business official, and deputy/associate/assistant superintendents.

(c) "OMB Circular A-133" means the publication, produced by the federal Office of Management and Budget and titled *Audits of States, Local Governments, and Non-Profit Organizations*, that sets forth standards for attaining consistency and uniformity in the audits of governments and organizations expending federal awards.

(d) "Reconciliation of Annual Financial and Budget Report with Audited Financial Statements" means a schedule that displays the differences between the ending fund balance(s) from the audited financial statements and the unaudited ending fund balance(s) from the annual financial and budget report for each fund in which a variance occurred.

(e) "Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*" means the component of the Other Independent Auditor's Reports that specifies material instances of noncompliance, if any; defines reportable conditions and specifies the reportable conditions disclosed as a result of the audit; defines material weaknesses and specifies the material weaknesses, if any, that were disclosed by the audit; includes a statement that no material weaknesses were found, if that is the case; includes a statement that nonmaterial noncompliance and nonreportable conditions involving the internal control structure and its operation were communicated to management in a separate management letter, if that is the case; specifies all instances of fraud and illegal acts, if any, that were disclosed by the audit, unless clearly inconsequential; and specifies material abuse, if any, that was disclosed by the audit.

(f) "Report on State Compliance" means the component of the Other Independent Auditor's Reports that specifically and separately addresses each of the state compliance requirements included in this audit guide that are applicable to the year audited, stating whether or not the district is in compliance with those requirements; includes a chart that displays the number of audit procedures for each compliance requirement applicable to the year audited and states that the audit procedures included in the audit guide for each requirement were followed in the making of the audit, if that is the case, or, if not, what other procedures were followed; and includes an expression of positive assurance with respect to compliance with applicable laws and regulations for those items tested in accordance with those regulations, and negative assurance for untested items.

(1) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2003-04 are

Attendance Reporting, 6;

Kindergarten Continuance, 3;

Independent Study, 22;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time and Staff Development Reform Program, 7;

Instructional Time for school districts, 4; for county offices of education, 3;

Community Day Schools, 9;

Instructional Materials general requirements, 9; K-8 only, 1; grades 9-12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4.

(2) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2004-05 are

Attendance Reporting, 8;

Kindergarten Continuance, 3;

Independent Study, 22;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time and Staff Development Reform Program, 7;

Instructional Time for school districts, 4; for county offices of education, 3;

Community Day Schools, 9;

Instructional Materials general requirements, 12; K-8 only, 1; grades 9-12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;

Alternative Pension Plans, 2;

Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;

State Lottery Funds (California State Lottery Act of 1984), 2;

California School Age Families Education (Cal-SAFE) Program, 3;

School Accountability Report Card, 3;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4.

(3) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2005-06 are

Attendance Reporting, 8;

Kindergarten Continuance, 3;

Independent Study, 22;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time for school districts, 4; for county offices of education, 3;

Community Day Schools, 9;

Morgan-Hart Class Size Reduction Program, 7;

Instructional Materials general requirements, 12; K-8 only, 1; grades 9-12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;

Alternative Pension Plans, 2;

Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;

State Lottery Funds (California State Lottery Act of 1984), 2;

California School Age Families Education (Cal-SAFE) Program, 3;

School Accountability Report Card, 3;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K-3, 4;

Contemporaneous Records of Attendance, for charter schools, 1;

Nonclassroom-Based Instruction/Independent Study, for charter schools, 15;

Additional Nonclassroom-Based Instruction, for charter schools, 1;

Determination of Funding for Nonclassroom-Based Instruction, for charter schools, 3;

Annual Instructional Minutes — Classroom Based, for charter schools, 3.

(4) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2006–07 are

Attendance Reporting, 8;

Kindergarten Continuance, 3;

Independent Study, 23;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time for school districts, 6; for county offices of education, 3;

Community Day Schools, 9;

Morgan–Hart Class Size Reduction Program, 7;

Instructional Materials general requirements, 12; K–8 only, 1; grades 9–12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;

Alternative Pension Plans, 2;

Excess Sick Leave, 2 or 3;

Notice of Right To Elect California State Teachers Retirement System (CalSTRS) Membership, 1;

Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;

State Lottery Funds (California State Lottery Act of 1984), 2;

California School Age Families Education (Cal–SAFE) Program, 3;

School Accountability Report Card, 3;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K–3, 4;

Contemporaneous Records of Attendance, for charter schools, 1;

Mode of Instruction, for charter schools, 1;

Nonclassroom–Based Instruction/Independent Study, for charter schools, 15;

Determination of Funding for Nonclassroom–Based Instruction, for charter schools, 3;

Annual Instructional Minutes — Classroom Based, for charter schools, 3;

(5) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2007–08 are

Attendance Reporting, 8;

Kindergarten Continuance, 3;

Independent Study, 23;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time for school districts, 6; for county offices of education, 3;

Community Day Schools, 9;

Morgan–Hart Class Size Reduction Program, 7;

Instructional Materials general requirements, 12; K–8 only, 1; grades 9–12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Classroom Teacher Salaries, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

School Construction Funds: School District Bonds, 3; State School Facilities Funds, 1;

Excess Sick Leave, 2 or 3;

Notice of Right To Elect California State Teachers Retirement System (CalSTRS) Membership, 1;

Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000), 2;

State Lottery Funds (California State Lottery Act of 1984), 2;

California School Age Families Education (Cal–SAFE) Program, 3;

School Accountability Report Card, 3;

Mathematics and Reading Professional Development, 4;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K–3, 4;

After School Education and Safety Program: general requirements, 4; after school, 4; before school, 5;

Contemporaneous Records of Attendance, for charter schools, 1;

Mode of Instruction, for charter schools, 1;

Nonclassroom–Based Instruction/Independent Study, for charter schools, 15;

Determination of Funding for Nonclassroom–Based Instruction, for charter schools, 3;

Annual Instructional Minutes — Classroom Based, for charter schools, 3.

(6) The numbers of audit procedures for the compliance requirements included in this audit guide for audits of fiscal year 2008–09 are

Attendance Reporting, 8;

Independent Study, 23;

Continuation Education, 10;

Adult Education, 9;

Regional Occupational Centers and Programs, 6;

Instructional Time for school districts, 6; for county offices of education, 3;

Community Day Schools, 9;

Morgan–Hart Class Size Reduction Program, 7;

Instructional Materials general requirements, 12; K–8 only, 1; grades 9–12 only, 1;

Ratios of Administrative Employees to Teachers, 1;

Classroom Teacher Salaries, 1;

Early Retirement Incentive, 4;

Gann Limit Calculation, 1;

School Accountability Report Card, 3;

Mathematics and Reading Professional Development, 4;

Class Size Reduction (including in charter schools): general requirements, 7; Option One, 3; Option Two, 4; districts or charter schools with only one school serving K–3, 4;

After School Education and Safety Program: general requirements, 4; after school, 4; before school, 5;

Contemporaneous Records of Attendance, for charter schools, 1;

Mode of Instruction, for charter schools, 1;

Nonclassroom–Based Instruction/Independent Study, for charter schools, 15;

Determination of Funding for Nonclassroom–Based Instruction, for charter schools, 3;

Annual Instructional Minutes — Classroom Based, for charter schools, 3.

(g) “Report on Compliance With Requirements Applicable to Each Major Program and Internal Control Over Compliance in Accordance With OMB Circular A–133” means the component of the Other Independent Auditor’s Reports that states whether the auditee has complied with federal laws, regulations, and the provisions of federal contracts or grant agreements and has established and maintained effective internal control over compliance with the requirements for major federal programs.

(h) “Schedule of Average Daily Attendance” means the schedule in the Supplementary Information section that displays Average Daily Attendance data for both the Second Period and Annual reports, by grade level and program as appropriate, and, for charter schools, includes total Average Daily Attendance and Average Daily Attendance generated through classroom–based instruction.

(i) “Schedule of Charter Schools” means the schedule in the Supplementary Information section that lists all charter schools chartered by the school district or county office of education, and displays information for each charter school on whether or not the charter school is included in the school district or county office of education audit.

(j) "Schedule of Financial Trends and Analysis" means, for fiscal year 2003–04, the schedule in the Supplementary Information section that displays information regarding the auditee's financial position and going concern status, in the form of actual financial and attendance figures for at least the most recent three-year period (ending with the audit year), plus the current year's budget, for the following items: General Fund financial activity, including total revenue, expenditures, and other sources and uses; General Fund balance; available reserve balances (funds designated for economic uncertainty, and any other remaining undesignated fund balance) within the General Fund, Special Reserve Fund, and any Article XIII–B Trust Funds; available reserve balances expressed as a percentage of total General Fund outgo (expenditures, transfers out, and other uses), including a comparison to the applicable state–recommended available reserve percentage; total long–term debt; and elementary and secondary Second Principal Average Daily Attendance, excluding Regional Occupational Centers and Programs and Adult Average Daily Attendance; and, when the auditee's percentage of available reserves to total General Fund outgo is below the state–recommended percentage, management's plans for increasing the auditee's available reserve percentage.

(k) "Schedule of Financial Trends and Analysis" means, for fiscal year 2004–05 and each fiscal year thereafter, the schedule in the Supplementary Information section that displays information regarding the auditee's financial position and going concern status, in the form of actual financial and attendance figures for at least the most recent three-year period (ending with the audit year), plus the current year's budget, for the following items: General Fund financial activity, including total revenue, expenditures, and other sources and uses; General Fund balance; available reserve balances (funds designated for economic uncertainty, and any other remaining undesignated fund balance) within the General Fund or Special Reserve Fund; available reserve balances expressed as a percentage of total General Fund outgo (expenditures, transfers out, and other uses), including a comparison to the applicable state–recommended available reserve percentage; total long–term debt; and elementary and secondary Second Principal Average Daily Attendance, excluding Regional Occupational Centers and Programs and Adult Average Daily Attendance; and, when the auditee's percentage of available reserves to total General Fund outgo is below the state–recommended percentage, management's plans for increasing the auditee's available reserve percentage.

(l) "Schedule of Findings and Questioned Costs" means that part of the Findings and Recommendations section that presents all audit year findings, and a copy of each management letter issued, if any, with each finding assigned the appropriate code from among the following: 10000 Attendance, 20000 Inventory of Equipment, 30000 Internal Control, 40000 State Compliance, 41000 CalSTRS, 50000 Federal Compliance, 60000 Miscellaneous, 61000 Classroom Teacher Salaries, 70000 Instructional Materials, 71000 Teacher Misassignments, 72000 School Accountability Report Card, and includes the following elements:

- (1) criteria
- (2) condition
- (3) effect
- (4) cause

(5) a statement of the number of units of Average Daily Attendance, if any, that were inappropriately reported for apportionment; and a statement consistent with its basis of funding, for any other inappropriately reported claim—such as number of staff development days, or number of pupils for Class Size Reduction, or amount in dollars for Instructional Materials, and so forth

- (6) a recommendation for the resolution of the finding

(7) a corrective action plan prepared by the auditee that describes in specific terms the actions planned or taken to correct the problem, or a statement from the auditee that the corrective action recommended by the auditor is not necessary or appropriate and giving the specific reasons why, if that is the case, and a statement that the corrective action plan was

not available if no corrective action plan was submitted before the audit was prepared.

(m) "Schedule of Instructional Time" means a schedule in the Supplementary Information section that displays, for school districts, including basic aid districts, and county offices of education, data that show whether the auditee complied with the provisions of Article 8 (commencing with Section 46200) of Chapter 2 of Part 26 of the Education Code; and for charter schools, data that show whether the auditee complied with the provisions of subdivision (a)(1) of Education Code Section 47612.5.

(n) "Schedule of Prior Audit Findings" means that part of the Findings and Recommendations section that presents the status of actions taken by the auditee on each of the findings and recommendations reported in the prior year audit, and includes as current year findings and recommendations those prior year findings that have not been resolved.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503, 41020 and 47634.2, Education Code.

HISTORY

1. New section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).
3. Certificate of Compliance as to 2–17–2006 order, including renumbering of section 19816 to section 19814 and renumbering and amendment of section 19814 to section 19816, transmitted to OAL 4–27–2006 and filed 6–9–2006 (Register 2006, No. 23).
4. New subsections (b)–(b)(5), subsection relettering, amendment of newly designated subsections (c) and (f)(2), new subsection (f)(4) and amendment of newly designated subsection (l) filed 6–12–2006 as an emergency; operative 6–12–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–10–2006 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6–12–2006 order transmitted to OAL 9–20–2006 and filed 9–29–2006 (Register 2006, No. 39).
6. Change without regulatory effect amending subsection (f)(4) filed 3–1–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).
7. Amendment of subsections (f)(1)–(f)(4), new subsection (f)(5) and amendment of subsections (h) and (m) filed 5–18–2007 as an emergency; operative 5–18–2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11–14–2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 5–18–2007 order transmitted to OAL 8–1–2007 and filed 9–10–2007 (Register 2007, No. 37).
9. New subsection (f)(6) filed 6–9–2008 as an emergency; operative 6–9–2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12–8–2008 or emergency language will be repealed by operation of law on the following day.

§ 19816.1. Applicability of Audit Procedures by Audit Year.

(a) Of the compliance requirements set forth in Article 3:

- (1) Sections 19817 through 19825, and 19828 through 19831 are applicable to fiscal year 2003–04 audits;
- (2) Sections 19817.1 through 19825, and 19828.1 through 19837 are applicable to fiscal year 2004–05 audits.
- (3) Sections 19817.1 through 19822, 19824, 19825, 19827 and 19828.1 through 19837 are applicable to fiscal year 2005–06 audits.
- (4) Sections 19817.1 through 19822, 19824, 19825, 19827, and 19828.1 through 19837 are applicable to fiscal year 2006–07 audits.
- (5) Sections 19817.1 through 19822, 19824, 19825, 19827, 19828.2 through 19832, and 19833.5 through 19838 are applicable to fiscal year 2007–08 audits.
- (6) Sections 19817.1, 19819 through 19822, 19824, 19825, 19827, 19828.3 through 19831, 19837.2, and 19838 are applicable to fiscal year 2008–09 audits.

(b) Of the compliance requirements set forth in Article 3.1,

- (1) Section 19845 is applicable to fiscal year 2003–04 audits
- (2) Section 19845.1 is applicable to fiscal year 2004–05 audits;
- (3) Section 19845.1 is applicable to fiscal year 2005–06 audits;
- (4) Section 19845.1 is applicable to fiscal year 2006–07 audits;

(5) Sections 19845.1 and 19846 are applicable to fiscal year 2007–08 audits.

(6) Sections 19845.1 and 19846 are applicable to fiscal year 2008–09 audits.

(c) Of the compliance requirements set forth in Article 4,

(1) Sections 19850 through 19854 are applicable to fiscal year 2005–06 audits.

(2) Sections 19850 through 19854 are applicable to fiscal year 2006–07 audits.

(3) Sections 19850 through 19854 are applicable to fiscal year 2007–08 audits.

(4) Sections 19850 through 19854 are applicable to fiscal year 2008–09 audits.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503, 41020 and 47634.2, Education Code.

HISTORY

1. Renumbering and amendment of section 19814.1 to section 19816.1 filed 6–9–2006; operative 6–9–2006 (Register 2006, No. 23).
2. New subsections (a)(4), (b)(4) and (c)(1)–(2) filed 6–12–2006 as an emergency; operative 6–12–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–10–2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 6–12–2006 order transmitted to OAL 9–20–2006 and filed 9–29–2006 (Register 2006, No. 39).
4. New subsections (a)(5), (b)(5) and (c)(3) filed 5–18–2007 as an emergency; operative 5–18–2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11–14–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 5–18–2007 order transmitted to OAL 8–1–2007 and filed 9–10–2007 (Register 2007, No. 37).
6. Amendment of subsection (a)(5) and new subsections (a)(6), (b)(6) and (c)(4) filed 6–9–2008 as an emergency; operative 6–9–2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12–8–2008 or emergency language will be repealed by operation of law on the following day.

Article 3. State Compliance Procedures: Local Education Agencies Other Than Charter Schools

§ 19817. Regular and Special Day Classes.

For fiscal year 2003–04 only, perform the following audit steps:

(a) Determine whether the Second Principal and Annual reports of attendance submitted to the California Department of Education reconcile to the supporting documents by verifying the local education agency's Average Daily Attendance calculations for each reporting line item, including the informational line items. Trace the Average Daily Attendance numbers from the Second Principal and Annual reports of attendance to the local education agency's summaries.

(b) Verify that the monthly site summaries used for summarizing attendance provide accurate information, by selecting a representative sample of schools and performing the following procedures (include special day classes in this sample; other special programs are identified separately in subsequent sections of this audit guide):

(1) Reconcile the monthly totals (days of apportionment attendance) on the school's attendance summary to the summary maintained by the local education agency for the Second Principal and the Annual attendance reports.

(2) Select at least one test month in the Second Principal or Annual attendance reporting period. Verify the mathematical accuracy of the monthly report and trace the totals to the school's attendance summary.

(3) Select a representative sample of classes (teachers) and trace the monthly totals from the monthly report to the data origination documentation. Verify the mathematical accuracy of the attendance registers, scantron summaries, or other data arrays.

(c) Select a sample of absences and compare to documentation supporting Average Daily Attendance reported to the California Department of Education to verify that absences were not included in Average Daily Attendance. The documentation maintained by the local education agency with regard to its absences may be in the form of notes, logs, or

other records, depending on the board-adopted policy concerning verification of absences.

(d) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(e) For each teacher selected pursuant to subparagraph (b)(3) of this section, test to determine whether the teacher possessed a valid certification document. If any teacher did not possess a valid certification document, calculate the penalty or penalties pursuant to the provisions of Education Code Section 45037 and include the actual calculation in an audit finding in the Findings and Recommendations section.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).
3. New first paragraph and amendment of subsection (e) filed 2–10–2005 as an emergency; operative 2–10–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–10–2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–10–2005 order transmitted to OAL 5–24–2005 and filed 6–20–2005 (Register 2005, No. 25).
5. Amendment of section heading filed 6–9–2006; operative 6–9–2006 (Register 2006, No. 23).

§ 19817.1. Regular and Special Day Classes.

For fiscal year 2004–05 and each fiscal year thereafter, perform the following audit steps:

(a) Determine whether the Second Principal and Annual reports of attendance submitted to the California Department of Education reconcile to the supporting documents by verifying the local education agency's Average Daily Attendance calculations for each reporting line item, including the informational line items. Trace the Average Daily Attendance numbers from the Second Principal and Annual reports of attendance to the local education agency's summaries.

(b) Verify that the monthly site summaries used for summarizing attendance provide accurate information, by selecting a representative sample of schools and performing the following procedures (include special day classes in this sample; other special programs are identified separately in subsequent sections of this audit guide):

(1) Reconcile the monthly totals (days of apportionment attendance) on the school's attendance summary to the summary maintained by the local education agency for the Second Principal and the Annual attendance reports.

(2) Select at least one test month in the Second Principal or Annual attendance reporting period. Verify the mathematical accuracy of the monthly report and trace the totals to the school's attendance summary.

(3) Select a representative sample of classes (teachers) and trace the monthly totals from the monthly report to the data origination documentation. Verify the mathematical accuracy of the attendance registers, scantron summaries, or other data arrays.

(c) Select a sample of absences and compare to documentation supporting Average Daily Attendance reported to the California Department of Education to verify that absences were not included in Average Daily Attendance. The documentation maintained by the local education agency with regard to its absences may be in the form of notes, logs, or other records, depending on the board-adopted policy concerning verification of absences.

(d) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the

Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(e) For each teacher selected pursuant to subparagraph (b)(3) of this section, test to determine whether the teacher possessed a valid certification document. If any teacher did not possess a valid certification document, calculate the penalty or penalties pursuant to the provisions of Education Code Section 45037 and include the actual calculation in an audit finding in the Findings and Recommendations section.

(f)(1) For each teacher selected pursuant to subparagraph (b)(3) of this section, test to determine whether the teacher was assigned to teach in a position

(A) consistent with the authorization of his or her certification document, or

(B) otherwise authorized by law pursuant to

1. a governing board resolution in conformance with the provisions of any of subdivision (b) of Education Code Section 44256, Section 44258.2, Section 44258.3, or Section 44263, or

2. approval of a committee on assignments pursuant to the provisions of subdivision (c) or (d) of Section 44258.7.

(2) If any teacher selected pursuant to subparagraph (b)(3) of this section was assigned to teach a class in which more than 20 percent of the pupils were English learners, determine whether the teacher was authorized to instruct limited-English-proficient pupils pursuant to the provisions of Education Code Section 44253.3, 44253.4, or 44253.10.

(3) If any teacher was assigned to teach in a position for which he or she was not authorized, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 2-10-2005 as an emergency; operative 2-10-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-10-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-10-2005 order transmitted to OAL 5-24-2005 and filed 6-20-2005 (Register 2005, No. 25).
3. Amendment of section heading filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19818. Kindergarten Continuance.

(a) Select a representative sample of kindergarten classes. Perform the following procedures.

(b) Obtain a list of kindergarten pupils enrolled in the selected kindergarten classes for the year audited and the year prior. Compare the enrollment lists and identify those kindergarten pupils, if any, who are on both lists.

(c) Review the record of each pupil identified on both lists to determine whether the pupil continued in kindergarten after completing one school year of kindergarten. For a pupil who begins kindergarten mid-year, one school year of kindergarten is completed on the last day prior to the anniversary of the pupil's first day of kindergarten.

(d) Verify that the local education agency has a signed parental agreement to continue form, approved in form and content by the California Department of Education, for each such pupil.

(e) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19819. Independent Study.

If the local education agency reported Average Daily Attendance generated through independent study, perform the following procedures

(a) At the agency level:

(1) Reconcile the local education agency's independent study attendance records to Average Daily Attendance generated through full-time independent study reported to the California Department of Education.

(2) From the independent study attendance records, select a representative sample of pupils for whom Average Daily Attendance generated through independent study was claimed, including pupils on intermittent or "short term" independent study if the local education agency offered that option, and confirm that every pupil in the sample is identified in the written records of the district or county board by grade level, by program placement, and by the school in which he or she is enrolled.

(3) If, pursuant to the foregoing audit procedure, any pupils are found that were not identified in the written records of the district or county board by any one or more of grade level, program placement, and the school in which he or she was enrolled, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of pupils and the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(4) Verify the local education agency's calculation, made pursuant to the provisions of subdivision (a) of Education Code Section 51745.6, of ineligible Average Daily Attendance, if any, generated through full-time independent study by pupils 18 years of age or less.

(5) Interview administrative personnel and school counselors of the local education agency to determine if the local education agency had policies and procedures to ensure that any pupil terminating an independent study agreement was permitted to immediately recommence classroom study.

(6) Interview local education agency administrative personnel as well as a sample of independent study teachers and review written agreements to determine whether it was the local education agency's policy or practice to provide independent study pupils or their parents/guardians with monetary funding or any other things of value such as equipment or paid private instruction. If so, determine whether classroom pupils or their parents/guardians had the same access to funding or things of value. Read program materials provided to all parents/guardians to determine that opportunities were equal and that pupils engaged in independent study were neither offered nor given incentives or special benefits.

(b) Select a sample of schools that is representative of the local education agency and sufficient in size to allow the auditor to draw a reasonable conclusion with respect to the local education agency's compliance with independent study requirements. Verify that the monthly site summaries used for summarizing attendance provide accurate information by performing the following procedures:

(1) At each school, examine the attendance accounting records to verify that the attendance of pupils or adult education students or both while engaged in independent study was maintained on separate registers or the local education agency had another mechanism in place to track Average Daily Attendance generated through independent study separately from other Average Daily Attendance.

(2) Determine the total number of days of attendance reported for each sampled school that resulted from attendance by pupils or adult education students or both while engaged in independent study. Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the local education agency for the Second Principal and the Annual attendance reports.

(3) Select a test month in the Second Principal or Annual attendance reporting period. Verify the mathematical accuracy of the monthly report and trace totals to the school's attendance summary.

(4) Verify that a certificated employee of the local education agency coordinated, evaluated, and provided general supervision, as that term is defined in Section 11700(b), of each pupil's or adult education student's

independent study, as required by the provisions of subdivision (a) of Education Code Section 51747.5.

(5) Select a representative sample of teachers. Verify the mathematical accuracy of the teachers' attendance records of pupil or adult education student attendance. Trace the monthly totals from the monthly report to the attendance records.

(6) If 100 percent apportionment attendance was recorded for all independent study pupils or adult education students or both, ensure that the teacher did not accrue more days of apportionment credit for any assignment than there were school days in that assignment ("banking"); or accrue days of attendance for work submitted subsequent to the specified due date for the assignment ("make-up").

(7) For programs in which hourly attendance accounting is not required pursuant to Section 406, verify that attendance credit was recorded in whole days based on the supervising teacher's personal review, evaluation, and assignment of time value to the pupil's or adult education student's work product, or the supervising teacher's review of the evaluation and assignment of time value made by another certificated teacher.

(c) From the attendance records, select a representative sample of pupils/adult education students for whom Average Daily Attendance generated through independent study was claimed, including pupils on intermittent ("short term") independent study if the local education agency offered that option, and perform the following procedures:

(1) Verify that no pupil was enrolled in the local education agency pursuant to subdivision (b) of Education Code Section 48204 while engaged in full-time independent study.

(2) Determine each selected pupil's or adult education student's county of residence at the time of commencing independent study and verify that it is the county in which the apportionment claim is reported or a contiguous county within California.

(3) Determine whether mailing addresses or other evidence of residency changed during the time the pupils/adult education students were in independent study and, if so, whether each pupil or adult education student remained resident of the same or a contiguous county within California.

(4) Verify that a total of not more than one day of attendance generated through independent study was recorded for each pupil, including pupils enrolled in more than one program, for any calendar day on which school was in session.

(5) Verify that a written agreement exists for each pupil/adult education student selected.

(6) Verify that every pupil whose independent study attendance was claimed for apportionment was participating under an agreement for a minimum of five consecutive school days.

(7) Verify that every written agreement contained all the required elements:

(A) The manner, time, frequency, and place for submitting a pupil's or adult education student's assignments and for reporting his or her progress.

(B) The objectives and methods of study (pupil/adult education student activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement) for the pupil's or adult education student's work.

(C) The methods utilized to evaluate that work (any specified procedure through which a certificated teacher personally assesses the extent to which achievement of the pupils/adult education students meets the objectives set forth in the written assignment).

(D) The specific resources, including materials and personnel, to be made available to the pupils/adult education students (resources reasonably necessary to the achievement of the objectives in the written agreement, not to exclude resources normally available to all pupils/adult education students on the same terms as the terms on which they are normally available to all pupils/adult education students).

(E) A statement of the policies adopted pursuant to subdivisions (a) and (b) of Education Code Section 51747 regarding the maximum length of time allowed between the assignment and the completion of a pupil's

or adult education student's assigned work, and the number of assignments a pupil or adult education student may miss before there must be an evaluation of whether it is in the pupil's or adult education student's best interests to continue in independent study.

(F) The duration of the independent study agreement, including the beginning and ending dates for the pupil's or adult education student's participation in independent study under the agreement, with no agreement being for a period longer than one semester, or one-half year for a school on a year-round calendar.

(G) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil/adult education student upon completion.

(H) A statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.

(I) Signatures, affixed prior to the commencement of independent study, by

1. the pupil or adult education student;

2. the pupil's parent, legal guardian, or caregiver as that term is used in Family Code Section 6550 and following, if the pupil is less than 18 years of age;

3. the certificated employee who has been designated as having responsibility for the general supervision of independent study; and

4. all other persons, if any, who had direct responsibility for providing assistance to the pupil or adult education student.

(8) Verify that no days of attendance were reported for dates prior to the signing of the agreement by all parties.

(9) Trace each pupil's or adult education student's attendance from the attendance records to the teacher's register, record of the pupil's or adult education student's work completed, and the corresponding work assignment record. Verify that evaluated pupil/adult education student work samples, bearing signed or initialed and dated notations by the supervising teacher indicating that he or she personally evaluated the work, or that he or she personally reviewed the evaluations made by another certificated teacher, have been retained in the file.

(10) Verify that the pupil/adult education student work product samples are related to the assignment pursuant to which the work was undertaken and reflect the curriculum adopted by the local governing board and not an alternative curriculum.

(11) Review records and other relevant documentation to verify that each pupil's choice to commence or to continue in independent study was entirely voluntary and uncoerced.

(d) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-15-2004 order, including amendment of section, transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

3. Change without regulatory effect amending subsection (b)(4) filed 5-12-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 19).

4. New subsections (a)(2) and (a)(3), subsection renumbering and amendment of newly designated subsection (a)(4) filed 6-12-2006 as an emergency; operative 6-12-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-10-2006 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-12-2006 order transmitted to OAL 9-20-2006 and filed 9-29-2006 (Register 2006, No. 39).

§ 19820. Continuation Education.

Verify that the monthly site attendance summaries provide accurate information by performing the following procedures:

(a) Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the district for the Second Principal and the Annual attendance reports.

(b) Select a test month in the Second Principal attendance reporting period. Verify the mathematical accuracy of the monthly report and trace the totals to the site's attendance summary.

(c) Select a representative sample of classes (teachers). Trace the monthly totals from the monthly report to the data origination documentation. Verify the mathematical accuracy of the attendance registers, scantron summaries, or other data arrays.

(d) Select a representative sample of pupils and perform the following procedures:

(1) Trace each pupil's attendance in the weekly attendance records to the teacher's attendance register or other approved record.

(2) Verify that hourly attendance accounting was used.

(3) Verify that attendance was not credited for more than the scheduled class time.

(e) Review weekly attendance records to verify that the district did not claim more than 15 hours per week, or a proportionally reduced number of hours per week when there were fewer than five school days.

(f) Select a representative sample of continuation pupils enrolled in work experience education.

(1) Review the weekly attendance reports and attendance registers to verify that each pupil actually attended, as set forth in Education Code Section 48400, four 60-minute hours in each week in which he/she generated additional hours of work experience apportionment attendance credit.

(2) Verify that the pupils received at least one instructional period per week of classroom work experience instruction or counseling as required by Education Code Section 51760.3(b).

(3) Verify that not more than 10 percent of each continuation high school's Average Daily Attendance at Second Principal (exclusive of Average Daily Attendance for a pupil who was pregnant or was a parent and the primary caregiver for one or more of his or her children) was generated through independent study as provided in Education Code Section 51745(b).

(g) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-15-2004 order, including amendment of subsection (e), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19821. Adult Education.

Verify that the monthly site attendance summaries provide accurate information by performing the following procedures:

(a) Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the district for the Annual attendance reports.

(b) Select a test month in the Annual attendance reporting period. Verify the mathematical accuracy of the monthly report and trace the totals to the site's attendance summary.

(c) Select a representative sample of classes (teachers) for both exclusively adult education students and concurrently enrolled K-12 pupils (if any). Trace the monthly totals from the monthly report to the data origination documentation. Verify the mathematical accuracy of the attendance registers, scantron summaries, or other data arrays.

(d) Verify that hourly attendance accounting was used.

(e) Verify that attendance was not credited for more than the scheduled class time.

(f) Verify that the district used individual teacher-certified records of the minutes of each pupil's or student's actual attendance for classes (sometimes termed ad hoc or laboratory class settings) that provided more total hours of class time than the minimum required to be attended for pupils or students to receive full credit for the class.

(g) Select a representative sample of K-12 pupils concurrently enrolled in adult education, if any. For each pupil selected, determine, from the adult school files, the K-12 program/school site in which the pupil was enrolled. Review the pupil's K-12 program/class schedule and/or transcript located at the K-12 program/school site and verify that the pupil was concurrently enrolled in adult education courses that supplemented and enriched, and did not supplant, the regular course offerings required to complete the curriculum for the K-12 program in which the pupil was enrolled.

(h) Review each concurrently enrolled pupil's file to ensure there is documentation of a counseling session—a communication whether by phone or in person which involved the pupil, a certificated representative of the high school, and the pupil's parent, guardian, or caretaker—that met the requirements of Education Code Section 52500.1(b).

(i) Review the district's records to ensure that it submitted to the California Department of Education for approval, in advance, a list of all courses provided.

(j) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-15-2004 order, including amendment of subsections (a) and (f), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19822. Regional Occupational Centers and Programs.

Verify that the monthly site attendance summaries provide accurate information by performing the following procedures:

(a) Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the local education agency for the Annual attendance reports.

(b) Select a test month in the Annual attendance reporting period. Verify the mathematical accuracy of the monthly report and trace the totals to the site's attendance summary.

(c) Select a representative sample of classes (teachers), and trace the monthly totals from the monthly report to the data origination documentation. Verify the mathematical accuracy of the attendance registers, scantron summaries, or other data arrays.

(d) Verify that hourly attendance accounting was used.

(e) Verify that attendance was not credited for more than the scheduled class time.

(f) Verify that the local education agency used individual teacher-certified records of the minutes of each pupil's or student's actual attendance for classes (sometimes termed laboratory class, community classroom, workplace learning, or cooperative education setting) that were not conducted in a fashion that required all pupils/students to be present at a set time or in which more hours of class time were available than the minimum number of hours pupils/students had to attend to receive full credit.

(g) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order, including amendment of subdivision (f), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19823. Instructional Time and Staff Development Reform Program.

Review the site calendars and perform the following procedures:

(a) Verify that the number of Instructional Time and Staff Development Reform Program staff development days claimed did not exceed three for each certificated classroom teacher and one for each classified classroom instructional aide or certificated teaching assistant.

(b) Verify that each Instructional Time and Staff Development Reform Program staff development day was intended to provide training in one or more of the following: instructional methods, including teaching strategies, classroom management and other training designed to improve pupil performance, conflict resolution, and academic content in the core curriculum areas that are provided by the local education agency. Staff development days held on or after January 1, 2004, additionally may be intended to provide training in intolerance and hatred prevention.

(c) Verify that contemporaneous records support the number of Instructional Time and Staff Development Reform Program staff development days funded.

(d) Verify that no Instructional Time and Staff Development Reform Program staff development days were counted as instructional days for apportionment purposes.

(e) Verify that Instructional Time and Staff Development Reform Program staff development was not conducted after school on any minimum day of which parents or guardians were notified pursuant to Education Code Section 48980(c), except as provided for staff in multitrack year-round schools.

(f) Verify that each staff development day was at least as long as the full-time instructional workday for certificated or classified instructional employees.

(g) Verify that each participant was present for a full-time instructional work day or the aggregate equivalent.

(h) If any ineligible Instructional Time and Staff Development Reform Program staff development days are identified through the foregoing procedures, prepare a schedule of the number of days audited and the number of ineligible days identified. Calculate the disallowance and estimate the dollar value, and include the schedule in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by

7-13-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 3-15-2004 order, including amendment of section, transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19824. Instructional Time.

(a) School districts: Perform the following procedures:

(1) Select a sample of schools that is representative of the district and sufficient in size to allow the auditor to draw a reasonable conclusion with respect to the district's compliance with instructional time requirements. Review the school attendance calendar and bell (class) schedules of the sampled schools. Ascertain whether any individual days are shorter than the usual length, by grade level, in that school. Compare the instructional minutes from each school site's bell (class) schedule to total instructional minutes computed by the business office.

(2) Determine, by grade level, the total number of days in each sampled school's attendance calendar that were of at least the minimum length required, pursuant to Education Code sections 46112, 46113, 46114, 46115, 46117, and 46119, for elementary schools, or sections 46141, and 46142, for junior high schools and high schools, and compare the totals to the standards set forth in Education Code section 41420 or 37670, as applicable.

(3) If all sampled regular day schools have fewer than the applicable minimum number of days, determine whether the same is true for all the regular day schools of the district.

(4) If all regular day schools have fewer than the applicable minimum number of days, the district is subject to the penalty provided in subdivision (a) of Education Code Section 41420. Include a statement of that fact and the amount of the penalty in the Findings and Recommendations section of the audit report.

If the district is not subject to the penalty provided in subdivision (a) of Education Code Section 41420 but is subject to one or more penalties as provided in subdivision (b) of Education Code Section 41420, prepare a separate schedule for each school that was not in compliance showing the number of additional days the school would have had to maintain operations to meet the 175 day requirement, or the 163 day requirement if the school was operated on a multitrack year-round schedule, and calculate the penalty or penalties. Include both the schedule(s) and the amount(s) of the calculated penalty or penalties in a finding in the Findings and Recommendations section of the audit report.

(5) Compare the amount of time offered for each grade level in each sampled school during the year being audited to the required amount of instructional time as set forth in Education Code Section 46201, and to the amount offered by the district during the 1982-83 year.

(6) Determine whether the district offered optional classes to satisfy incentive funding requirements. If enrollment in optional classes is low, review the district's documentation of class offerings to ensure that the district has acted effectively to comply with the law. Practices that are not consistent with effectively offering additional instructional time may include, but are not limited to, offering only a small number of courses that in addition are appropriate only for limited numbers of pupils, and courses scheduled such that pupils may take them only by giving up their lunch period or by attending school outside the schedule of district-provided bus service.

(7) Prepare the "Schedule of Instructional Time" that must be presented in the Supplementary Information section of the audit report, showing by grade level the number(s) of instructional minutes offered by the district in the 1982-83 year; the 1986-87 instructional time requirements specified in Education Code Section 46201; the instructional minutes offered during the year audited showing the school with the lowest number of minutes offered at each grade level; the number of instructional days offered during the year audited on the traditional calendar and on any multitrack calendars; and whether the district complied with the instructional minutes and days provisions. State in a note to the schedule whether the district received incentive funding for increasing instructional time pursuant to the Longer Instructional Day incentives.

(8) If any schools were not in compliance with the instructional minutes or days provisions, or both, prepare a separate schedule for each school showing only those grade levels that were not in compliance and calculate the penalty or penalties pursuant to Education Code Section 46200(c), 46201(d), or 46202(b). Include both the schedule(s) and the calculated penalty or penalties in a finding in the Findings and Recommendations section of the audit report.

(b) County offices of education: If the county office of education received Longer Instructional Day or Longer Year incentive funding, or both, for the fiscal year audited for special day classes, perform the following procedures:

(1) Review the school attendance calendar and bell (class) schedules. Determine the amount of instructional time offered by each school.

(2) Determine whether the county office of education complied with the instructional time incentive funding requirements by comparing the amount of time offered for each grade level during the year being audited to the required amount of instructional time as set forth in Education Code Section 46201.5.

(3) Prepare the "Schedule of Instructional Time" that must be presented in the Supplementary Information section of the audit report showing by grade level the 1986–87 instructional time requirements specified in Education Code Section 46201.5; the instructional minutes offered during the year audited showing the school with the lowest number of minutes; the number of instructional days offered during the year audited on the traditional calendar and on any multitrack calendars; whether the county office of education complied with the instructional minutes requirements; and, if the county office of education received an apportionment pursuant to Education Code Section 46200.5(a), whether the county office of education complied with the instructional days provisions. State in a note to the schedule whether the county office of education received incentive funding for increasing instructional time pursuant to the Longer Instructional Day incentives and whether it received an apportionment pursuant to Education Code Section 46200.5(a).

(4) If any schools were not in compliance with the instructional minutes or days provisions, or both, prepare a separate schedule for each such school showing only those grade levels that were not in compliance and calculate the penalty or penalties set forth in Education Code Section 46200.5(c) or 46201.5(e). Include both the schedule(s) and the calculated penalty or penalties in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order, including amendment of subsections (a)(1) and (a)(3), transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).
3. Amendment of subsection (a)(1), new subsections (a)(2)–(4), subsection renumbering and amendment of newly designated subsections (a)(7)–(8) and subsections (b)(3)–(4) filed 6–12–2006 as an emergency; operative 6–12–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–10–2006 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of subsection (a)(2) (Register 2006, No. 39).
5. Certificate of Compliance as to 6–12–2006 order transmitted to OAL 9–20–2006 and filed 9–29–2006 (Register 2006, No. 39).

§ 19825. Community Day Schools.

(a) Verify that the minimum school day included at least 360 minutes of community day school classroom instruction by reviewing the bell schedule(s) of the school district's or county office of education's community day school(s), and that the school's practice was to schedule all pupils, other than pupils with exceptional needs whose Individualized Education Programs specified otherwise, to attend for at least the minimum day.

(b) Select a representative sample of pupils and verify that they were scheduled to attend the community day school for at least 360 minutes each day by reviewing their class assignments.

(c) Verify that pupils were provided classroom instruction by a certificated employee of the school district or county office of education for at least the minimum school day, by reviewing teacher room assignments and employment records.

(d) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(e) Select a representative sample of pupils who were enrolled in the district's or county office's community day school(s) and perform the following procedures:

(1) Trace the credit reported for each sampled pupil's attendance in the fifth and sixth hours of attendance back to the record prepared by the classroom teacher.

(2) Verify that hourly attendance accounting was used.

(3) Verify that pupils who attended fewer than five hours in a school day were not reported for attendance credit for the additional funding, that attendance of five hours was reported for one-half day of attendance credit for the additional funding, and that attendance of six hours or more was reported for one whole day of attendance credit for the additional funding.

(f) If any inappropriately reported units of Average Daily Attendance are identified through the immediately foregoing procedure, prepare a schedule displaying the hours of attendance credit inappropriately reported and recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(g) Select a representative sample of pupils who were enrolled in the district's or county office's community day school(s) and perform the following procedures:

(1) Trace the credit reported for each sampled pupil's attendance in the seventh and eighth hours back to the data origination record.

(2) Verify that hourly attendance accounting was used.

(3) Verify that no pupils who had not completed the full six-hour instructional school day were reported for attendance credit for the additional funding.

(4) Verify that the pupils' attendance during the seventh and eighth hours was supervised by an employee of the district or the county office of education.

(h) If any inappropriately reported hours of attendance are identified through the immediately foregoing procedure, prepare a schedule displaying the hours of attendance inappropriately reported and an estimate of their dollar value, and include it in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order, including amendment of subsection (c), transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).

§ 19826. Class Size Reduction.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3–15–2004 as an emergency; operative 3–15–2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–13–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3–15–2004 order, including amendment of subsections (g) and (g)(2), transmitted to OAL 5–6–2004 and filed 6–23–2004 (Register 2004, No. 26).
3. New first paragraph and amendment of subsections (b)(1)(C)1., (c)(1)(C)1. and (e)(4) filed 2–10–2005 as an emergency; operative 2–10–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–10–2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–10–2005 order transmitted to OAL 5–24–2005 and filed 6–20–2005 (Register 2005, No. 25).
5. Renumbering of section 19826 to section 19845 filed 6–9–2006; operative 6–9–2006 (Register 2006, No. 23).

§ 19826.1. Class Size Reduction.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 2–10–2005 as an emergency; operative 2–10–2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–10–2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–10–2005 order transmitted to OAL 5–24–2005 and filed 6–20–2005 (Register 2005, No. 25).
3. Change without regulatory effect amending subsections (d)–(d)(2) and (d)(4) filed 11–10–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 45).
4. Renumbering of section 19826.1 to section 19845.1 filed 6–9–2006; operative 6–9–2006 (Register 2006, No. 23).

§ 19827. Morgan–Hart Class Size Reduction Program.

(a) Determine whether the school district received Morgan–Hart Class Size Reduction Program funding pursuant to the provisions of Chapter 6.8 of Part 28 of the Education Code (commencing with Section 52080).

(b) Review the district's report of enrollment for the Morgan–Hart Class Size Reduction Program and trace the data, after determining that it is mathematically correct, to supporting summaries.

(c) Select a representative sample of schools to test, and perform the following procedures:

(1) Verify the mathematical accuracy of the calculation of Active Monthly Enrollment as defined in Section 15141(b)(1) and Section 15140(d) for each class.

(2) Trace site summaries to contemporaneous documentation.

(3) Select a representative sample of classes to verify that each class had not more than 22 pupils enrolled during the school year.

(4) Verify that the school-wide Student to Teacher Ratio as set forth in Section 15141(b)(2) for all participating classes is not more than 20 pupils per certificated teacher.

(5) Review the titles of the participating grade 9 classes to verify that the classes were in courses that count toward completion of the graduation requirements established in subparagraph (A), (B), (C), or (D) of paragraph (1) of subdivision (a) of Education Code Section 51225.3, that the classes were in not more than two courses, and that one of the courses was English.

(d) If any of the classes reported for Morgan–Hart Class Size Reduction Program funds are determined to have been ineligible, prepare a schedule summarizing the results of all procedures and presenting the noncompliant classes by grade level, course title, number of classes, amount of full year equivalent enrollment (FYEE) as defined in Section 15140(e), for grade 9 classes, or number of pupils, for grade 10, 11, and 12 classes, incorrectly reported as eligible, and the amount of Morgan–Hart Class Size Reduction Program funding claimed on the basis of the FYEE or those pupils. Include the data for each ineligible class only once, even if the class was found ineligible in more than one of the steps in the audit procedures. Include the schedule in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020 and 52084, Education Code.

HISTORY

1. New section filed 2–17–2006 as an emergency; operative 2–17–2006 (Register 2006, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–19–2006 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 2004, No. 26.
2. Certificate of Compliance as to 2–17–2006 order transmitted to OAL 4–27–2006 and filed 6–9–2006 (Register 2006, No. 23).

§ 19828. Instructional Materials.

For fiscal year 2003–04 only, perform the following audit steps:

(a) Determine whether the year audited is one for which the governing boards of school districts or county boards of education that receive funds for instructional materials from any state source are subject to the provisions of Education Code Section 60119, as set forth in subdivision (c) of that section.

(b) If the year audited is one in which the school district or county office of education was required to conduct a hearing as provided in Education Code Section 60119, perform the following audit procedures.

(1) Determine whether the school district governing board or county board of education held the public hearing or hearings required by the provisions of Education Code Section 60119 prior to making a determination through a resolution whether each pupil in each school had, or would have by the end of that fiscal year, sufficient textbooks or other instructional materials in each subject.

(2) Determine whether the school district governing board or county board of education provided 10–day notice of the required public hearing or hearings.

(3) Determine whether each notice included the time, place, and purpose of the hearing and whether the school district or county office of education posted the notice at a minimum of three public locations in the school district or county, respectively.

(4) Determine whether the resolution stated that there were, or would be by the end of that fiscal year, sufficient textbooks or instructional materials, or that the resolution stated there were insufficient textbooks or instructional materials, or both. If the latter, verify that the school district governing board or county board of education took action to ensure that each pupil would have sufficient textbooks or instructional materials, or both, within a two–year period from the date of the determination.

(c) If the school district or county office of education was not in compliance with any of the requirements set forth in the foregoing procedures, the school district or county office of education was not eligible to receive an Instructional Materials Funding Realignment Program allowance for the year audited. Include a finding in the Findings and Recommendations section of the audit report showing the full amount of Instructional Materials Funding Realignment Program allowance received as disallowed.

(d) Instructional Materials Funding Realignment Program:

(1) Determine the amount of the Instructional Materials Funding Realignment Program allowance received by the local education agency.

(2) Verify that the allowance received was accounted for separately.

(3) For kindergarten and grades 1 through 8, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were adopted by the State Board of Education in March 1999 or later, are in one of the four eligible subject areas, and bear the copyright date and are of editions of the materials adopted by the State Board of Education.

(4) For grades 9 through 12, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were reviewed and approved through a resolution adopted by the local education agency's governing board as being aligned with State Board of Education–adopted content standards.

(5) Determine whether the governing board certified, as set forth in Education Code Section 60422, that each pupil had been provided with a standards–aligned textbook or basic instructional materials.

(6) If the governing board did certify as set forth in Education Code Section 60422, review the Instructional Materials Funding Realignment Program expenditures initiated after the certification was made and select a sample to verify that the textbooks or materials were from the following categories:

(A) Purchase of instructional materials adopted by the State Board of Education pursuant to the provisions of Education Code Section 60200 for kindergarten and grades 1 through 8, or by the governing board pursuant to the provisions of Education Code Section 60400 for grades 9 through 12.

(B) Purchase, at the local education agency's discretion, of instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials from any source.

(C) Purchase of tests.

(D) Binding of textbooks that were otherwise usable and were on the most recent list of basic instructional materials adopted by the State Board of Education and made available pursuant to the provisions of Education Code Section 60200.

(E) Funding of in-service training related to instructional materials.

(F) Purchase of classroom library materials for kindergarten and grades 1 through 4, if the local education agency had a plan as specified in Education Code Section 60242(d).

(e) If any of the instructional materials funds are found to have been expended inappropriately, include the amount inappropriately spent in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order, including amendment of subsection (c), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
3. New first paragraph and amendment of subsections (b)(1), (c)-(d)(1), (d)(6)(A) and (d)(6)(D) filed 2-10-2005 as an emergency; operative 2-10-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-10-2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-10-2005 order transmitted to OAL 5-24-2005 and filed 6-20-2005 (Register 2005, No. 25).

§ 19828.1. Instructional Materials.

For fiscal years 2004-05 through 2006-07, perform the following procedures:

(a) Determine whether the year audited is one for which the governing boards of school districts or county boards of education that receive funds for instructional materials from any state source are subject to the provisions of Education Code Section 60119, as set forth in subdivision (d) of that section.

(b) If the year audited is one in which the school district or county office of education was required to conduct a hearing as provided in Education Code Section 60119, perform the following audit procedures.

(1) For fiscal year 2005-06 and each fiscal year thereafter, determine whether the school district governing board or county board of education, prior to making a determination through a resolution as to the sufficiency of textbooks or other instructional materials, held the public hearing or hearings required by the provisions of Education Code Section 60119 on or before the end of the eighth week from the first day pupils attended school for that year, or, in a school district or county office of education having schools that operate on a multitrack, year-round calendar, on or before the end of the eighth week from the first day pupils attended school for that year on any track that began in August or September.

(2) Determine whether the school district governing board or county board of education provided 10-day notice of the required public hearing or hearings.

(3) Determine whether each notice included the time, place, and purpose of the hearing and whether the school district or county office of education posted the notice at a minimum of three public locations in the school district or county, respectively.

(4) Determine whether the hearing was held at a time that encouraged the attendance of teachers and parents and guardians of pupils who attend the schools in the district and did not take place during or immediately following school hours.

(5) Determine whether the resolution stated that each pupil in each school had sufficient textbooks or instructional materials aligned to the content standards adopted by the State Board of Education pursuant to Education Code Section 60605 and consistent with the content and cycles of the curriculum framework adopted by the State Board of Education, or instead that there was an insufficiency of such textbooks or instructional materials, or both, in any one or more of mathematics, science, history-social science, and English/language arts including the English language development component of an adopted program, as appropriate. If the resolution stated any insufficiency, verify that the school district governing board or county board of education provided information to classroom teachers and to the public setting forth, for each school in which an insufficiency existed, the percentage of pupils who lacked sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each pupil did not have sufficient standards-aligned textbooks or instructional materials, or both, and took action to ensure that each pupil would have sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination was made.

(6) Verify whether the governing board made a written determination as to whether each pupil enrolled in a foreign language or health course had sufficient textbooks or instructional materials that were consistent with the content and cycles of the curriculum frameworks adopted by the State Board of Education for those subjects.

(7) Verify whether the governing board determined the availability of laboratory science equipment as applicable to science laboratory courses offered in grades 9 to 12, inclusive.

(c) If the school district or county office of education was not in compliance with any of the requirements set forth in procedures 1 through 5 of subdivision (b) of this section, the school district or county office of education was not eligible to receive an Instructional Materials Funding Realignment Program allowance for the fiscal year audited. Include a finding in the Findings and Recommendations section of the audit report showing the full amount of Instructional Materials Funding Realignment Program allowance received as disallowed.

(d) If the school district or county office of education was not in compliance with any of the requirements set forth in procedures 6 or 7 of subparagraph (b) of this section, report the noncompliance in a finding in the Findings and Recommendations section of the audit report.

(e) Instructional Materials Funding Realignment Program:

(1) Determine the amount of the Instructional Materials Funding Realignment Program allowance received by the local education agency.

(2) Verify that the allowance received was accounted for separately.

(3) For kindergarten and grades 1 through 8, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were adopted by the State Board of Education in March 1999 or later, are in one of the four eligible subject areas, and bear the copyright date and are of editions of the materials adopted by the State Board of Education.

(4) For grades 9 through 12, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were reviewed and approved through a resolution adopted by the local education agency's governing board as being aligned with State Board of Education-adopted content standards.

(5) Determine whether the governing board certified, as set forth in Education Code Section 60422, that each pupil had been provided with a standards-aligned textbook or basic instructional materials.

(6) If the governing board did certify as set forth in Education Code Section 60422, review the Instructional Materials Funding Realignment Program expenditures initiated after the certification was made and select a sample to verify that the textbooks or materials were from the following categories:

(A) Purchase of instructional materials adopted by the State Board of Education pursuant to the provisions of Education Code Section 60200 for kindergarten and grades 1 through 8, or by the governing board pursuant to the provisions of Education Code Section 60400 for grades 9 through 12.

(B) Purchase, at the local education agency's discretion, of instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials from any source.

(C) Purchase of tests.

(D) Binding of textbooks that were otherwise usable and were on the most recent list of basic instructional materials adopted by the State Board of Education and made available pursuant to the provisions of Education Code Section 60200.

(E) Funding of in-service training related to instructional materials.

(F) Purchase of classroom library materials for kindergarten and grades 1 through 4, if the local education agency had a plan as specified in Education Code Section 60242(d).

(f) If any of the instructional materials funds are found to have been expended inappropriately, include the amount inappropriately spent in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 2-10-2005 as an emergency; operative 2-10-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-10-2005 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect designating last paragraph as subsection (f) filed 3-21-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 12).
3. Certificate of Compliance as to 2-10-2005 order transmitted to OAL 5-24-2005 and filed 6-20-2005 (Register 2005, No. 25).
4. Amendment of subsection (b)(5) filed 6-12-2006 as an emergency; operative 6-12-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-10-2006 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 6-12-2006 order transmitted to OAL 9-20-2006 and filed 9-29-2006 (Register 2006, No. 39).
6. Amendment of first paragraph and subsections (b)(6) and (d) filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

§ 19828.2. Instructional Materials.

For fiscal year 2007-08, perform the following procedures:

(a) Determine whether the year audited is one for which the governing boards of school districts or county boards of education that receive funds for instructional materials from any state source are subject to the provisions of Education Code Section 60119, as set forth in subdivision (d) of that section.

(b) If the year audited is one in which the school district or county office of education was required to conduct a hearing as provided in Education Code Section 60119, perform the following audit procedures.

(1) Determine whether the school district governing board or county board of education, prior to making a determination through a resolution as to the sufficiency of textbooks or other instructional materials, held the public hearing or hearings required by the provisions of Education Code Section 60119 on or before the end of the eighth week from the first day pupils attended school for that year, or, in a school district or county office of education having schools that operate on a multitrack, year-round calendar, on or before the end of the eighth week from the first day pupils

attended school for that year on any track that began in August or September.

(2) Determine whether the school district governing board or county board of education provided 10-day notice of the required public hearing or hearings.

(3) Determine whether each notice included the time, place, and purpose of the hearing and whether the school district or county office of education posted the notice at a minimum of three public locations in the school district or county, respectively.

(4) Determine whether the hearing was held at a time that encouraged the attendance of teachers and parents and guardians of pupils who attend the schools in the district and did not take place during or immediately following school hours.

(5) Determine whether the resolution stated that each pupil in each school had sufficient textbooks or instructional materials aligned to the content standards adopted by the State Board of Education pursuant to Education Code Section 60605 and consistent with the content and cycles of the curriculum framework adopted by the State Board of Education, or instead that there was an insufficiency of such textbooks or instructional materials, or both, in any one or more of mathematics, science, history-social science, and English/language arts including the English language development component of an adopted program, as appropriate. If the resolution stated any insufficiency, verify that the school district governing board or county board of education provided information to classroom teachers and to the public, setting forth, in the resolution, for each school in which an insufficiency existed, the percentage of pupils who lacked sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each pupil did not have sufficient standards-aligned textbooks or instructional materials, or both, and took action to ensure that each pupil would have sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination was made.

(6) Verify whether the governing board made a written determination as to whether each pupil enrolled in a foreign language or health course had sufficient textbooks or instructional materials that were consistent with the content and cycles of the curriculum frameworks adopted by the State Board of Education for those subjects.

(7) Verify whether the governing board determined the availability of laboratory science equipment as applicable to science laboratory courses offered in grades 9 to 12, inclusive.

(c) If the school district or county office of education was not in compliance with any of the requirements set forth in audit procedures 1 through 5 of subparagraph (b) of this section, the school district or county office of education was not eligible to receive an Instructional Materials Funding Realignment Program allowance for the fiscal year audited. Include a finding in the Findings and Recommendations section of the audit report showing the full amount of Instructional Materials Funding Realignment Program allowance received as disallowed.

(d) If the school district or county office of education was not in compliance with any of the requirements set forth in audit procedures 6 or 7 of subparagraph (b) of this section, report the noncompliance in a finding in the Findings and Recommendations section of the audit report.

(e) Instructional Materials Funding Realignment Program:

(1) Determine the amount of the Instructional Materials Funding Realignment Program allowance received by the local education agency.

(2) Verify that the allowance received was accounted for separately.

(3) For kindergarten and grades 1 through 8, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were adopted by the State Board of Education in March 1999 or later, are in one of the four eligible subject areas, and bear the copyright date and are of editions of the materials adopted by the State Board of Education.

(4) For grades 9 through 12, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were reviewed and approved through a resolution adopted by

the local education agency's governing board as being aligned with State Board of Education-adopted content standards.

(5) Determine whether the governing board certified, as set forth in Education Code Section 60422, that each pupil had been provided with a standards-aligned textbook or basic instructional materials.

(6) If the governing board did certify as set forth in Education Code Section 60422, review the Instructional Materials Funding Realignment Program expenditures initiated after the certification was made and select a sample to verify that the expenditures each fell into one of the following categories:

(A) Purchase of instructional materials adopted by the State Board of Education pursuant to the provisions of Education Code Section 60200 for kindergarten and grades 1 through 8, or by the governing board pursuant to the provisions of Education Code Section 60400 for grades 9 through 12.

(B) Purchase, at the local education agency's discretion, of instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials from any source.

(C) Purchase of tests.

(D) Binding of textbooks that were otherwise usable and were on the most recent list of basic instructional materials adopted by the State Board of Education and made available pursuant to the provisions of Education Code Section 60200.

(E) Funding of in-service training related to instructional materials.

(F) Purchase of classroom library materials for kindergarten and grades 1 through 4, if the local education agency had a plan as specified in subdivision (d) of Education Code Section 60242.

(f) If any of the instructional materials funds are found to have been expended inappropriately, include the amount inappropriately spent in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).
3. Amendment of first paragraph and subsections (b)(1), (c), (d), (e)(6) and (e)(6)(F) filed 6-9-2008 as an emergency; operative 6-9-2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12-8-2008 or emergency language will be repealed by operation of law on the following day.

§ 19828.3. Instructional Materials.

For fiscal year 2008-09 and each fiscal year thereafter, perform the following procedures:

(a) Determine whether the year audited is one for which the governing boards of school districts or county boards of education that receive funds for instructional materials from any state source are subject to the provisions of Education Code Section 60119, as set forth in subdivision (d) of that section.

(b) If the year audited is one in which the school district or county office of education was required to conduct a hearing as provided in Education Code Section 60119, perform the following audit procedures.

(1) Determine whether the school district governing board or county board of education, prior to making a determination through a resolution as to the sufficiency of textbooks or other instructional materials, held the public hearing or hearings required by the provisions of Education Code Section 60119 on or before the end of the eighth week from the first day pupils attended school for that year, or, in a school district or county office of education having schools that operate on a multitrack, year-round calendar, on or before the end of the eighth week from the first day pupils attended school for that year on any track that began in August or September.

(2) Determine whether the school district governing board or county board of education provided 10-day notice of the required public hearing or hearings.

(3) Determine whether each notice included the time, place, and purpose of the hearing and whether the school district or county office of education posted the notice at a minimum of three public locations in the school district or county, respectively.

(4) Determine whether the hearing was held at a time that encouraged the attendance of teachers and parents and guardians of pupils who attend the schools in the district and did not take place during or immediately following school hours.

(5) Determine whether the resolution stated that each pupil in each school had sufficient textbooks or instructional materials aligned to the content standards adopted by the State Board of Education pursuant to Education Code Section 60605 and consistent with the content and cycles of the curriculum framework adopted by the State Board of Education, or instead that there was an insufficiency of such textbooks or instructional materials, or both, in any one or more of mathematics, science, history-social science, and English/language arts including the English language development component of an adopted program, as appropriate. If the resolution stated any insufficiency, verify that the school district governing board or county board of education provided information to classroom teachers and to the public, setting forth, in the resolution, for each school in which an insufficiency existed, the percentage of pupils who lacked sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each pupil did not have sufficient standards-aligned textbooks or instructional materials, or both, and took action to ensure that each pupil would have sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination was made.

(6) Verify whether the governing board made a written determination as to whether each pupil enrolled in a foreign language or health course had sufficient textbooks or instructional materials that were consistent with the content and cycles of the curriculum frameworks adopted by the State Board of Education for those subjects.

(7) Verify whether the governing board determined the availability of laboratory science equipment as applicable to science laboratory courses offered in grades 9 to 12, inclusive.

(c) If the school district or county office of education was not in compliance with any of the requirements set forth in audit procedures 1 through 5 of subparagraph (b) of this section, the school district or county office of education was not eligible to receive an Instructional Materials Funding Realignment Program allowance for the fiscal year audited. Include a finding in the Findings and Recommendations section of the audit report showing the full amount of Instructional Materials Funding Realignment Program allowance received as disallowed.

(d) If the school district or county office of education was not in compliance with any of the requirements set forth in audit procedures 6 or 7 of subparagraph (b) of this section, report the noncompliance in a finding in the Findings and Recommendations section of the audit report.

(e) Instructional Materials Funding Realignment Program:

(1) Determine the amount of the Instructional Materials Funding Realignment Program allowance received by the local education agency.

(2) Verify that the allowance received was accounted for separately.

(3) For kindergarten and grades 1 through 8, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were adopted by the State Board of Education in March 1999 or later, are in one of the four eligible subject areas, and bear the copyright date and are of editions of the materials adopted by the State Board of Education.

(4) For grades 9 through 12, review the local education agency's list of instructional materials purchased and select a sample to verify that the materials were reviewed and approved through a resolution adopted by the local education agency's governing board as being aligned with State Board of Education-adopted content standards.

(5) Determine whether the governing board certified, as set forth in Education Code Section 60422, that each pupil had been provided with a standards-aligned textbook or basic instructional materials.

(A) for kindergarten and grades 1 to 8, inclusive, as adopted by the State Board of Education pursuant to the provisions of Education Code Section 60200 and following, and by the beginning of the first school term that commenced not later than 24 months after their adoption, and

(B) for grades 9 to 12, inclusive, as adopted by the local governing board pursuant to the provisions of Education Code Sections 60400 and 60411.

(6) If the governing board did certify as set forth in Education Code Section 60422, review the Instructional Materials Funding Realignment Program expenditures initiated after the certification was made and select a sample to verify that the expenditures each fell into one of the following categories:

(A) Purchase of instructional materials adopted by the State Board of Education pursuant to the provisions of Education Code Section 60200 for kindergarten and grades 1 through 8, or by the governing board pursuant to the provisions of Education Code Section 60400 for grades 9 through 12.

(B) Purchase, at the local education agency's discretion, of instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials from any source.

(C) Purchase of tests.

(D) Binding of textbooks that were otherwise usable and were on the most recent list of basic instructional materials adopted by the State Board of Education and made available pursuant to the provisions of Education Code Section 60200.

(E) Funding of in-service training related to instructional materials.

(F) Purchase of classroom library materials for kindergarten and grades 1 through 4, if the local education agency had a plan as specified in subdivision (d) of Education Code Section 60242.

(f) If any of the instructional materials funds are found to have been expended inappropriately, include the amount inappropriately spent in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-9-2008 as an emergency; operative 6-9-2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12-8-2008 or emergency language will be repealed by operation of law on the following day.

§ 19829. Ratios of Administrative Employees to Teachers.

(a) For school districts, verify that the district is in compliance with the administrator-to-teacher ratio requirement for the year audited by determining that the employees were properly classified and the ratio was calculated consistent with the provisions of Education Code Section 41403.

(b) If the number of administrators per hundred teachers exceeded the allowable ratio set forth in Education Code Section 41402, indicate the number of excess administrators and the associated penalty, as set forth in Education Code Section 41404, in the Findings and Recommendations section of the audit report.

(c) If the school district cannot show that it was in compliance with the ratio during the year audited, include a statement in the Findings and Recommendations section of the audit report that the ratio could not be confirmed.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).

§ 19829.5. Classroom Teacher Salaries.

(a) If, during the year preceding the year audited, the district had 101 units or more of Average Daily Attendance, and, during the year audited, the district was subject to the provisions of Education Code Section 41372 pursuant to the provisions of Education Code Section 41374, determine whether, after applicable audit adjustments, the district met the current expense of education percentage requirements for expenditure for payment of salaries of classroom teachers as set forth in Education Code Section 41372.

(b) If the district did not meet the applicable minimum percentage required for payment of salaries of classroom teachers, include a statement in the Findings and Recommendations section of the audit report indicating the minimum percentage required, the district's current expense of education for the year audited after applicable audit adjustments, and the dollar amount by which the district was deficient.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020 and 41372, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

§ 19830. Early Retirement Incentive.

For fiscal years 2003-04 and 2004-05, perform the following procedures:

(a) Obtain a copy of the certification required by Education Code sections 22714, 22714.5, and 44929 and verify that the school district received approval from the county office of education or that the county office of education received approval from the Superintendent of Public Instruction as appropriate.

(b) Verify that the reason(s) contained in the certification are consistent with the results of the early retirement incentive program.

(c) Verify the data disclosed as a result of the district's or county office's adoption of the early retirement incentive program.

(d) Include a disclosure in the Notes to the Basic Financial Statements that presents the number and type of positions vacated; the age, service credit, salary, and, separately, the benefits of the retirees receiving additional service credit; a comparison of the salary and benefits of each retiree with the salary and benefits of the replacement employee, if any; the resulting retirement cost, including interest, if any, and postretirement health benefit costs, incurred by the employer.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order, including amendment of subsection (a), transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
3. Amendment adding new first paragraph filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

§ 19830.1. Early Retirement Incentive.

For fiscal year 2005-06 and each fiscal year thereafter, perform the following procedures:

(a) Obtain a copy of the certification required by Education Code sections 22714 and 44929 and verify that the school district received approval from the county office of education or that the county office of education received approval from the Superintendent of Public Instruction as appropriate.

(b) Verify that the reason(s) contained in the certification are consistent with the results of the early retirement incentive program.

(c) Verify the data disclosed as a result of the district's or county office's adoption of the early retirement incentive program.

(d) Include a disclosure in the Notes to the Basic Financial Statements that presents the number and type of positions vacated; the age, service credit, salary, and, separately, the benefits of the retirees receiving additional service credit; a comparison of the salary and benefits of each retiree with the salary and benefits of the replacement employee, if any; the resulting retirement cost, including interest, if any, and postretirement health benefit costs, incurred by the employer.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

§ 19831. Gann Limit Calculation.

The following audit procedures apply to the current year appropriations limit calculation for school districts and county offices of education.

(a) Verify that the data used by the district or the county office is accurate, ensuring that the prior year Gann ADA and prior year appropriations limit used by the local education agency match the data on the prior year appropriations limit calculation previously submitted to the California Department of Education. If the district or county office has made adjustments to the prior year data, verify that the adjustments are correct. If the data has been revised, verify that the district or the county office has recalculated the prior year appropriations limit and attached a copy of the recalculation to the current year appropriations limit.

(b) If the agency is found out of compliance, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Section 1.5 of Article XIII B, California Constitution.

HISTORY

1. New section filed 3-15-2004 as an emergency; operative 3-15-2004 (Register 2004, No. 12). A Certificate of Compliance must be transmitted to OAL by 7-13-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-15-2004 order transmitted to OAL 5-6-2004 and filed 6-23-2004 (Register 2004, No. 26).
3. Amendment of first paragraph and subsection (a) filed 6-12-2006 as an emergency; operative 6-12-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-10-2006 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 6-12-2006 order transmitted to OAL 9-20-2006 and filed 9-29-2006 (Register 2006, No. 39).

§ 19832. School Construction Funds.

(a) School district bonds.

(1) Verify that the proceeds from the sale of bonds issued pursuant to the provisions of Education Code Section 15140 were deposited in accordance with the provisions of Education Code Section 15146.

(2) Select a sample of expenditures and verify that bond proceeds were expended only for the purpose(s) for which the bonds were issued, as specified in the official statement or statements of bond indenture submitted by the school district governing board to the county auditor or county treasurer.

(3) Verify that any money transferred to the general fund of the district from the interest and sinking fund was transferred in compliance with the provisions of Education Code Section 15234.

(4) If any proceeds from the sale of bonds are found to have been deposited inappropriately or to have been expended for purposes other than those specified in the official statement or statements of bond indenture, or if any money is found to have been transferred inappropriately from the interest and sinking fund, include a finding in the Findings and Recommendations section of the audit report stating the amount inappropriately deposited, expended, or transferred.

(b) State School Facilities Funds.

(1) Select a sample of expenditures and verify that expenditures from the school district's account in the county school facilities fund were made only for qualifying school facilities expenditures as provided in subdivision (c) of Education Code Section 17070.43 and additionally set forth in Education Code Section 17072.35, or in Education Code Section 17074.25 as further defined in subdivision (f) of Education Code Section 17070.15; or for other high priority capital outlay purposes in accordance with the provisions of subdivision (c) of Education Code Section 17070.63.

(2) If any expenditures of funds from the school district's account in the county school facilities fund are found to have been made for non-qualifying purposes, include a finding in the Findings and Recommendations section of the audit report stating the amount inappropriately expended.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-30-2004 order, including repealer of section 19832 and renumbering and amendment of former section 19833 to section 19832, transmitted to OAL 12-9-2004 and filed 1-19-2005 (Register 2005, No. 3).

§ 19833. Alternative Pension Plans.

(a) As used in this section, "alternative pension plan" means a pension plan not administered by the California Public Employees Retirement System (Government Code Section 20000 and following) or the State Teachers Retirement System (Education Code Section 22000 and following).

(b) Interview administrative personnel and determine whether the local education agency has created an entity, joined a joint powers authority, or entered into a joint venture that provides for an alternative pension plan for its current or former permanent, full-time employees.

(c) If the local education agency has done so, determine that the activity is fully disclosed in the Notes to the Basic Financial Statements.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-30-2004 order, including renumbering of former section 19833 to section 19832 and renumbering and amendment of former section 19834 to section 19833, transmitted to OAL 12-9-2004 and filed 1-19-2005 (Register 2005, No. 3).

§ 19833.5. Excess Sick Leave.

(a) Determine whether excess sick leave, as that term is defined in subdivision (c) of Education Code Section 22170.5, is expressly authorized or is accrued for the local education agency's employees who are members of the California State Teachers Retirement System (CalSTRS) by performing the following procedures:

(1) Review the employment contracts of the superintendent and one other high-level administrator who is a CalSTRS member, to identify the number of sick leave days each was authorized per school year.

(2) If neither contract authorizes excess sick leave, review the sick leave accrual records of the superintendent and the other high level administrator to determine whether either or both have accrued excess sick leave.

(3) If neither authorized nor accrued excess sick leave is identified in the foregoing steps, disclose that fact in the Supplementary Information section of the audit report.

(b) If either authorized or accrued excess sick leave is identified in the audit procedures in subdivision (a), review teachers' (non-administrators) collective bargaining agreements to identify any provision authorizing excess sick leave. If no excess sick leave authorization is identified, disclose that fact in the Supplementary Information section of the audit report.

(c) If authorized or accrued excess sick leave is identified in the audit procedures in subdivisions (a) or (b) or both, disclose that fact in the Supplementary Information section of the audit report, identifying each contract or bargaining agreement that authorized excess sick leave, and specifying by title(s) the employee(s) whose sick leave accrual exhibited the granting of excess sick leave.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-12-2006 as an emergency; operative 6-12-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-10-2006 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-12-2006 order transmitted to OAL 9-20-2006 and filed 9-29-2006 (Register 2006, No. 39).

§ 19833.6. Notification of Right to Elect California State Teachers Retirement System (CalSTRS) Membership.

(a) Determine whether the district provides a CalSTRS membership election form consistent with the provisions of subdivision (b) of Education Code Section 22455.5 (the notification and election form for the CalSTRS Cash Balance Benefit Program, if the district offers that program, or the permissive election and acknowledgement of receipt of CalSTRS Defined Benefit Plan membership information form, if the district does not offer the Cash Balance Benefit Program) to each newly hired substitute teacher or part-time employee who will render creditable service as defined in Education Code Section 22119.5.

(b) If the required form is not provided to each newly hired substitute teacher or part-time employee who will render creditable service as defined in Education Code Section 22119.5, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-12-2006 as an emergency; operative 6-12-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-10-2006 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 6-12-2006 order transmitted to OAL 9-20-2006 and filed 9-29-2006 (Register 2006, No. 39).

§ 19834. Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000).

Determine the amount of the Proposition 20 restricted lottery allowance received from the State Controller.

(a) Verify that the allowance received was accounted for separately.

(b) From the expenditures of the Proposition 20 restricted lottery allowance funds, select a sample and verify that they were for instructional materials as defined in subdivisions (h), (m), or (n) of Education Code Section 60010.

(c) If any expenditure was not for instructional materials, include its amount in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 9-30-2004 order, including renumbering of former section 19834 to section 19833 and renumbering of former section 19835 to section 19834, transmitted to OAL 12-9-2004 and filed 1-19-2005 (Register 2005, No. 3).

§ 19835. State Lottery Funds (California State Lottery Act of 1984).

Determine the amount of the non-Proposition 20 lottery allowance received from the State Controller.

(a) Verify that the allowance was accounted for separately as required by subdivision (k) of Government Code Section 8880.5.

(b) From the expenditures of the non-Proposition 20 lottery allowance funds, select a sample and determine whether any funds were used for the acquisition of real property, construction of facilities, or financing of research.

(c) If any non-Proposition 20 lottery funds are identified as having been expended for the acquisition of real property, construction of facilities, or financing of research, include the amount of the expenditure in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-30-2004 order, including renumbering of former section 19835 to section 19834 and renumbering of former section 19836 to section 19835, transmitted to OAL 12-9-2004 and filed 1-19-2005 (Register 2005, No. 3).

§ 19836. California School Age Families Education (Cal-SAFE) Program.

If the school district, county office of education, or charter school received Cal-SAFE funds for the audited year, perform the following procedures. Do not apply the materiality provisions set forth in Section 19813.

(a) Determine whether the Cal-SAFE annual report of attendance submitted to the California Department of Education reconciles to supporting documentation by verifying the local education agency's calculation of each reporting line item.

(b) For each line item, select a representative sample of Cal-SAFE pupils whose Average Daily Attendance was included. For each pupil in each sample, verify the Average Daily Attendance calculation, and trace the pupil's daily attendance to the data origination documentation.

(c) Determine whether any Cal-SAFE pupils generated Average Daily Attendance in more than one program. Select a representative sample from among such pupils. Verify that not more than a total of one unit of Average Daily Attendance generated by each pupil was included in the report.

(d) If the total reported units of Average Daily Attendance generated by Cal-SAFE pupils in their education programs include more than one unit of Average Daily Attendance for any pupil, include a statement in the Findings and Recommendations section of the audit report of the number of excess unit(s).

(e) If any inappropriately reported units of Average Daily Attendance are identified through the audit procedures in subdivisions (a) and (b), subtract the inappropriately reported units of Average Daily Attendance from the total reported. From the resulting total, subtract any excess units of Average Daily Attendance identified through the audit procedures in subdivision (c). Include a statement in the Findings and Recommendations section of the audit report of the correct number of support services allowances and the dollar value of the inappropriately claimed support services allowances.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-17-2004 as an emergency; operative 6-17-2004 (Register 2004, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-15-2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 9-30-2004 as an emergency; operative 10-16-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 2-14-2005 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9-30-2004 order, including renumbering of former section 19836 to section 19835 and renumbering and amendment of former section 19837 to section 19836, transmitted to OAL 12-9-2004 and filed 1-19-2005 (Register 2005, No. 3).
4. Change without regulatory effect amending first paragraph and subsections (d)-(e) filed 4-14-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).
5. Amendment of first paragraph filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19837. School Accountability Report Card.

For fiscal years 2004-05 through 2006-07, perform the following procedures:

(a) Obtain copies of the quarterly report of summarized complaint data compiled pursuant to the provisions of subdivision (d) of Education Code Section 35186. Identify any complaints related to teacher misassignment or vacancies included in the summarized data and compare each such complaint to the information on teacher misassignment or vacancies stated in the School Accountability Report Card for the school identified in the complaint, as required by the provisions of subdivision (b)(5) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the complaint, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(b) For each school in the sample of schools selected pursuant to Section 19817.1(b), obtain the school district's or county office of education's completed copy of the interim evaluation instrument developed by the Office of Public School Construction pursuant to the provisions of subdivision (d) of Education Code Section 17002. If the interim evaluation instrument was completed prior to the publication of the school's School Accountability Report Card, compare the information contained in the instrument to the information on safety, cleanliness, and adequacy of school facilities contained in the School Accountability Report Card for that school as required by the provisions of subdivision (b)(9) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the interim evaluation instrument, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(c) For each school in the sample of schools selected pursuant to Section 19817.1(b), compare the information on the availability of sufficient textbooks and other instructional materials included in the School Accountability Report Card pursuant to the provisions of subdivision (b)(6)(B) of Education Code Section 33126 with the information in the resolution reviewed pursuant to Section 19828.1(b)(5) and the information in the determinations reviewed pursuant to Section 19828.1(b)(6) and Section 19828.1(b)(7). If the information in the School Accountability Report Card is inconsistent with the information in the resolution or the determinations, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 2-10-2005 as an emergency; operative 2-10-2005 (Register 2005, No. 6). A Certificate of Compliance must be transmitted to OAL by

6-10-2005 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 3005, No. 3.

2. Certificate of Compliance as to 2-10-2005 order transmitted to OAL 5-24-2005 and filed 6-20-2005 (Register 2005, No. 25).
3. Amendment adding new first paragraph filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

§ 19837.1. School Accountability Report Card.

For fiscal year 2007-08, perform the following procedures:

(a) Obtain copies of the quarterly report of summarized complaint data compiled pursuant to the provisions of subdivision (d) of Education Code Section 35186. Identify any complaints related to teacher misassignment or vacancies included in the summarized data and compare each such complaint to the information on teacher misassignment or vacancies stated in the School Accountability Report Card for the school identified in the complaint, as required by the provisions of subdivision (b)(5) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the complaint, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(b) For each school in the sample of schools selected pursuant to Section 19817.1(b), obtain the school district's or county office of education's copy of its most recently completed school facility conditions evaluation instrument developed by the Office of Public School Construction and approved by the State Allocation Board, or a local evaluation instrument that meets the same criteria, pursuant to the provisions of subdivision (d) of Education Code Section 17002. If the evaluation instrument was completed prior to the publication of the school's School Accountability Report Card, compare the information contained in the evaluation instrument to the information on safety, cleanliness, and adequacy of school facilities contained in the School Accountability Report Card for that school as required by the provisions of subdivision (b)(9) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the evaluation instrument, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(c) For each school in the sample of schools selected pursuant to Section 19817.1(b), compare the information on the availability of sufficient textbooks and other instructional materials included in the School Accountability Report Card pursuant to the provisions of subdivision (b)(6)(B) of Education Code Section 33126 with the information in the resolution reviewed pursuant to Section 19828.2(b)(5) and the information in the determinations reviewed pursuant to Section 19828.2(b)(6) and Section 19828.2(b)(7). If the information in the School Accountability Report Card is inconsistent with the information in the resolution or the determinations, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).
3. Amendment of first paragraph filed 6-9-2008 as an emergency; operative 6-9-2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12-8-2008 or emergency language will be repealed by operation of law on the following day.

§ 19837.2. School Accountability Report Card.

For fiscal year 2008-09 and each fiscal year thereafter, perform the following procedures:

(a) Obtain copies of the quarterly report of summarized complaint data compiled pursuant to the provisions of subdivision (d) of Education Code Section 35186. Identify any complaints related to teacher misassignment or vacancies included in the summarized data and compare each such complaint to the information on teacher misassignment or vacancies stated in the School Accountability Report Card for the school identified in the complaint, as required by the provisions of subdivision (b)(5) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the complaint, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(b) For each school in the sample of schools selected pursuant to Section 19817.1(b), obtain the school district's or county office of education's copy of its most recently completed school facility conditions evaluation instrument developed by the Office of Public School Construction and approved by the State Allocation Board, or a local evaluation instrument that meets the same criteria, pursuant to the provisions of subdivision (d) of Education Code Section 17002. If the evaluation instrument was completed prior to the publication of the school's School Accountability Report Card, compare the information contained in the evaluation instrument to the information on safety, cleanliness, and adequacy of school facilities contained in the School Accountability Report Card for that school as required by the provisions of subdivision (b)(9) of Education Code Section 33126. If the information in the School Accountability Report Card is inconsistent with the information in the evaluation instrument, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

(c) For each school in the sample of schools selected pursuant to Section 19817.1(b), compare the information on the availability of sufficient textbooks and other instructional materials included in the School Accountability Report Card pursuant to the provisions of subdivision (b)(6)(B) of Education Code Section 33126 with the information in the resolution reviewed pursuant to Section 19828.3(b)(5) and the information in the determinations reviewed pursuant to Section 19828.3(b)(6) and Section 19828.3(b)(7). If the information in the School Accountability Report Card is inconsistent with the information in the resolution or the determinations, interview management to determine the basis of the inconsistency. If the School Accountability Report Card was inaccurate, include a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14501, 14502.11, 14503 and 41020, Education Code.

HISTORY

1. New section filed 6-9-2008 as an emergency; operative 6-9-2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12-8-2008 or emergency language will be repealed by operation of law on the following day.

§ 19838. Mathematics and Reading Professional Development.

If the school district or county office of education received Mathematics and Reading Professional Development funds, perform the following procedures:

(a)(1) If it is determined, pursuant to provisions of Section 19828.2(b)(5), that standards-aligned textbooks in mathematics or English language arts were not provided for each pupil, determine whether Mathematics and Reading Professional Development funding was claimed for any of the teachers of those pupils.

(2) For each teacher identified in the foregoing procedure, if any, determine the number of that teacher's pupils who were not provided standards-aligned mathematics or English language arts textbooks and calculate the applicable penalty by multiplying that number of pupils by \$100. Include a statement in the Findings and Recommendations section of the audit report specifying the number of pupils and the penalty amount.

(b)(1) Verify that the number of teachers claimed on the request for reimbursement submitted to the California Department of Education did not exceed the number of teachers actually participating in the Mathematics and Reading Professional Development program.

(2) If it is determined, through the foregoing audit procedure that fewer teachers participated in the Mathematics and Reading Professional Development Program training than were claimed for reimbursement, include a statement in the Findings and Recommendations section of the audit report specifying the number of teachers inappropriately reported for funding and the amount of funding received for those teachers.

(c)(1) Verify that the training provider who conducted the first 40 hours of training was on the State Board of Education-approved list.

(2) If in-house training was provided during the year audited for any portion of the remaining 80 hours of follow-up instruction, verify that the local education agency's in-house professional development met the requirements specified in subdivision (a)(4) of Education Code Section 99237 by being focused primarily on the following:

(A) The mathematics or English language arts content standards adopted by the State Board of Education pursuant to Section 60605.

(B) The curriculum frameworks adopted by the State Board of Education for mathematics and English language arts.

(C) The use of instructional materials that will be used by pupils and are aligned to the mathematics or English language arts content standards adopted by the State Board of Education pursuant to Section 60605.

(D) Instructional strategies designed to help all pupils gain mastery of the California academic content standards, with special emphasis on English language learners and pupils with exceptional needs.

(3) If it is determined through the foregoing audit procedures that the school district or county office of education used an unapproved contractor or that any in-house training was ineligible, or both, include a finding in the Findings and Recommendations section of the audit report stating the amount inappropriately spent.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020 and 99237, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

Article 3.1. State Compliance Procedures: School Districts and Charter Schools

§ 19845. Class Size Reduction.

For fiscal year 2003-04 only, perform the following audit steps:

If the school district or charter school received Class Size Reduction Program funding for the year audited, perform the following procedures, using daily averaging in all instances in which averaging is required.

(a) Verify the mathematical accuracy of the Class Size Reduction Program claim form submitted to the California Department of Education.

(b) Option One Classes

(1) Select a sample of classes from those that were certified as eligible for Option One Class Size Reduction Program funding, using the following procedures:

(A) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be made randomly.

(B) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days that occurred between the first day of instruction and April 15, inclusive, of the year audited.

(C) If class size for the sampled classes was more than 20.4 when averaged over a period from the first day of instruction to April 15, inclusive, the auditor shall conduct a more in-depth review. The in-depth review shall be either of the following:

1. A review of all instructional days for all classes for which a district or charter school has requested funding pursuant to the provisions of Education Code Section 52126.

2. A randomly selected sample of all classes and instructional days, of sufficient size and designed in such a manner that the auditor can conclude, with a 95 percent degree of confidence, that the average daily class size for each class, when averaged over the period from the first day of instruction to April 15, did not exceed 20.4.

(D) The district or charter school shall make the determination as to which of the two in-depth review methods set forth in the immediately preceding subparagraph shall be used.

(2) For sampled classes, review the data used to prepare the list of Option One classes reported to the California Department of Education, to verify that the report is supported by contemporaneous records.

(3) For sampled classes, review teacher assignments and other available pupil and teacher assignment data to verify that the number of students reported as being under the immediate supervision of each assigned teacher for each class reported was the actual class size for a substantial majority of the full regular school day.

(c) Option Two Classes

(1) Select a sample of classes from those that were certified as eligible for Option Two Class Size Reduction Program funding, using the following procedures:

(A) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be made randomly.

(B) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days that occurred between the first day of instruction and April 15, inclusive, of the year audited.

(C) If class size for the sampled classes was more than 20.4 when averaged over a period from the first day of instruction to April 15, inclusive, the auditor shall conduct a more in-depth review. The in-depth review shall be either of the following:

1. A review of all instructional days for all classes for which a district or charter school has requested funding pursuant to the provisions of Education Code Section 52126.

2. A randomly selected sample of all classes and instructional days, of sufficient size and designed in such a manner that the auditor can conclude, with a 95 percent degree of confidence, that the average daily class size for each class, when averaged over the period from the first day of instruction to April 15, did not exceed 20.4.

(D) The district or charter school shall make the determination as to which of the two in-depth review methods set forth in the immediately preceding subparagraph shall be used.

(2) For sampled classes, review the data used to prepare the list of Option Two classes reported to the California Department of Education, to verify that the report is supported by contemporaneous records.

(3) For sampled classes, review teacher assignments and other available data to ensure that the class size reported was the maximum actual class size for at least one-half of the instructional minutes offered per day in each grade for which Option Two Class Size Reduction funding was claimed.

(4) Review class schedules to ensure that the time that pupils spent in Option Two classes was primarily devoted to instruction in reading or mathematics.

(d) Class Size Reduction in districts or charter schools with only one school serving K-3:

For school districts or charter schools that maintain only one school that serves kindergarten and grades 1 through 3, verify that:

(1) The district or charter school claimed Class Size Reduction funding for not more than two classes per participating grade level,

(2) The pupil-to-teacher ratio did not exceed 22.4 to 1 in any class,

(3) The average class size of all classes participating in Class Size Reduction, combined, did not exceed 20.4, and

(4) The governing board made a public declaration that it exhausted all possible alternatives to averaging and was unable to achieve a pupil-to-teacher ratio of 20 to 1 in a way that is educationally acceptable.

(e) General requirements:

(1) For all sampled classes, and for classes claimed for Class Size Reduction funding in districts or charter schools with only one school serving kindergarten and grades 1 through 3, review the school level information used to complete the California Department of Education's reporting form. Verify that:

(A) classes claimed for funding were for pupils in kindergarten, or grades 1 to 3, inclusive;

(B) if only one grade level was reduced, it was grade 1;

(C) if two grade levels were reduced, they were grades 1 and 2; and

(D) priority was given to the reduction of classes in grades 1 and 2 before classes in kindergarten or grade 3 were reduced.

(2) For the sampled classes, verify that the district or charter school did not report to the California Department of Education on the Class Size Reduction reporting form:

(A) any classes consisting of special education pupils enrolled in special day classes on a full-time basis,

(B) any pupil who was enrolled in independent study or home study for the full regular school day,

(C) any pupil who was enrolled in independent study or home study for any portion of the full regular school day, for that portion of each day that the pupil was on independent study or home study, or

(D) any pupil enrolled in a Class Size Reduction combination class who was at a grade level ineligible for Class Size Reduction funding.

(3) For the sampled classes, verify that counts began on the first teaching day each class existed.

(4) If a district elected to reduce class size through the use of an early-late instructional program and claimed Class Size Reduction funding for Option One classes, verify that it did not follow the provisions of Education Code Section 46205 when calculating instructional time used to qualify for Longer Instructional Day and Year incentive funding unless the district operated an early-late instructional program pursuant to the provisions of Education Code Section 46205 prior to July 1, 1996.

(5) If a district elected to reduce class size through the use of an early-late instructional program and claimed Class Size Reduction funding for Option Two classes, verify that it did not follow the provisions of Education Code Section 46205 when calculating instructional time used to qualify for Longer Instructional Day and Year incentive funding.

(f) If any of the classes reported for Class Size Reduction funds is found to be ineligible for such funding pursuant to any of the foregoing audit procedures, or if any individual pupils in classes found to be eligible are found to have been ineligible because of their grade level(s) but to have been reported as eligible, or both, prepare a schedule, which must be presented as part of the Findings and Recommendations, summarizing the results of all procedures and presenting the noncompliant classes by grade level, number of classes, number of pupils incorrectly reported as eligible, and Class Size Reduction funding claimed on the basis of those pupils, including the data for each ineligible class only once, even if found to have been ineligible for Class Size Reduction funds in more than one of the steps in the audit procedures.

(g) Interview management regarding the district's staff development program.

(1) Verify that the staff development program required, as set forth in Education Code Section 52127, that any certificated teacher providing direct instruction to a class in the Class Size Reduction Program receive the appropriate training necessary to maximize the educational advantages of Class Size Reduction, including but not limited to methods for providing individualized instruction; effective teaching, including classroom management, in smaller classes; identifying and responding to student needs; and opportunities to build on the individual strengths of students.

(2) If the district did not have a staff development program as set forth in Education Code Section 52127, include a finding in the Findings and Recommendations section of the audit report showing the full amount of Class Size Reduction funding received as disallowed.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New article 3.1 heading and renumbering of section 19826 to section 19845 filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19845.1. Class Size Reduction.

For fiscal year 2004–05 and each fiscal year thereafter, perform the following audit steps:

If the school district or charter school received Class Size Reduction Program funding for the year audited, perform the following procedures, using daily averaging in all instances in which averaging is required.

(a) Verify the mathematical accuracy of the Class Size Reduction Program claim form submitted to the California Department of Education.

(b) Option One Classes

(1) Select a sample of classes from those that were certified as eligible for Option One Class Size Reduction Program funding, using the following procedures:

(A) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be made randomly.

(B) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days that occurred between the first day of instruction and April 15, inclusive, of the year audited.

(C) If class size for the sampled classes was more than 20.4 when averaged over a period from the first day of instruction to April 15, inclusive, the auditor shall conduct a more in–depth review. The in–depth review shall be either of the following:

1. A review of all instructional days for all classes for which a district or charter school has requested funding pursuant to the provisions of Education Code Section 52126.

2. A randomly selected sample of all classes and instructional days, of sufficient size and designed in such a manner that the auditor can conclude, with a 95 percent degree of confidence, that the average daily class size for each class, when averaged over the period from the first day of instruction to April 15, did not exceed 20.4.

(D) The district or charter school shall make the determination as to which of the two in–depth review methods set forth in the immediately preceding subparagraph shall be used.

(2) For sampled classes, review the data used to prepare the list of Option One classes reported to the California Department of Education, to verify that the report is supported by contemporaneous records.

(3) For sampled classes, review teacher assignments and other available pupil and teacher assignment data to verify that the number of students reported as being under the immediate supervision of each assigned teacher for each class reported was the actual class size for a substantial majority of the full regular school day.

(c) Option Two Classes

(1) Select a sample of classes from those that were certified as eligible for Option Two Class Size Reduction Program funding, using the following procedures:

(A) The number of classes to be reviewed shall be based on auditor judgment, but the selection of classes shall be made randomly.

(B) For each class selected, the sample shall include at least 15 days randomly selected from all instructional days that occurred between the first day of instruction and April 15, inclusive, of the year audited.

(C) If class size for the sampled classes was more than 20.4 when averaged over a period from the first day of instruction to April 15, inclusive, the auditor shall conduct a more in–depth review. The in–depth review shall be either of the following:

1. A review of all instructional days for all classes for which a district or charter school has requested funding pursuant to the provisions of Education Code Section 52126.

2. A randomly selected sample of all classes and instructional days, of sufficient size and designed in such a manner that the auditor can conclude, with a 95 percent degree of confidence, that the average daily class size for each class, when averaged over the period from the first day of instruction to April 15, did not exceed 20.4.

(D) The district or charter school shall make the determination as to which of the two in–depth review methods set forth in the immediately preceding subparagraph shall be used.

(2) For sampled classes, review the data used to prepare the list of Option Two classes reported to the California Department of Education, to verify that the report is supported by contemporaneous records.

(3) For sampled classes, review teacher assignments and other available data to ensure that the class size reported was the maximum actual class size for at least one–half of the instructional minutes offered per day in each grade for which Option Two Class Size Reduction funding was claimed.

(4) Review class schedules to ensure that the time that pupils spent in Option Two classes was primarily devoted to instruction in reading or mathematics.

(d) Class Size Reduction option for districts or charter schools with only one school serving K–3:

For school districts or charter schools that participate in Class Size Reduction pursuant to the provisions of subdivision (h) of Education Code Section 52122, verify that:

(1) The school had no more than two classes per participating grade level.

(2) The governing board made a public declaration as set forth in subdivision (h)(2) of Education Code Section 52122.

(3) The average class size of all classes participating in Class Size Reduction, combined, did not exceed 20.4, and

(4) The pupil–to–teacher ratio did not exceed 22.4 to 1 in any class.

(e) General requirements:

(1) For all sampled classes, and for classes claimed for Class Size Reduction funding in districts or charter schools with only one school serving kindergarten and grades 1 through 3, review the school level information used to complete the California Department of Education’s reporting form. Verify that:

(A) classes claimed for funding were for pupils in kindergarten, or grades 1 to 3, inclusive;

(B) if only one grade level was reduced, it was grade 1;

(C) if two grade levels were reduced, they were grades 1 and 2; and

(D) priority was given to the reduction of classes in grades 1 and 2 before classes in kindergarten or grade 3 were reduced.

(2) For the sampled classes, verify that the district or charter school did not report to the California Department of Education on the Class Size Reduction reporting form:

(A) any classes consisting of special education pupils enrolled in special day classes on a full–time basis,

(B) any pupil who was enrolled in independent study or home study for the full regular school day,

(C) any pupil who was enrolled in independent study or home study for any portion of the full regular school day, for that portion of each day that the pupil was on independent study or home study, or

(D) any pupil enrolled in a Class Size Reduction combination class who was at a grade level ineligible for Class Size Reduction funding.

(3) For the sampled classes, verify that counts began on the first teaching day each class existed.

(4) If a district elected to reduce class size through the use of an early–late instructional program and claimed Class Size Reduction funding for Option One classes, verify that it did not follow the provisions of Education Code Section 46205 when calculating instructional time used to qualify for Longer Instructional Day and Year incentive funding unless the district operated an early–late instructional program pursuant to the provisions of Education Code Section 46205 prior to July 1, 1996.

(5) If a district elected to reduce class size through the use of an early–late instructional program and claimed Class Size Reduction funding for Option Two classes, verify that it did not follow the provisions of Education Code Section 46205 when calculating instructional time used to qualify for Longer Instructional Day and Year incentive funding.

(f) If any of the classes reported for Class Size Reduction funding is found to be ineligible for such funding pursuant to any of the foregoing

audit procedures, or if any individual pupils in eligible classes are found to have been ineligible because of their grade level(s) but to have been included in the number of eligible pupils reported, or both, prepare, and include in the Findings and Recommendations section of the audit report, a schedule summarizing the results of all procedures and displaying the numbers of noncompliant classes by grade level, number of pupils incorrectly reported as eligible, and Class Size Reduction funding claimed on the basis of those classes and pupils. Include the data for each ineligible class only once, even if found to have been ineligible for Class Size Reduction funding in more than one of the steps in the audit procedures. Display information separately for classes with annual average enrollments determined, pursuant to the provisions of Education Code Section 52124.5, to be

(1) equal to or greater than 20.5 but less than 21.0, with a 20 percent reduction of the amount to which the district would otherwise be eligible for each such class;

(2) equal to or greater than 21.0 but less than 21.5, with a 40 percent reduction of the amount to which the district would otherwise be eligible for each such class;

(3) equal to or greater than 21.5 but less than 21.9, with an 80 percent reduction of the amount to which the district would otherwise be eligible for each such class; and

(4) equal to or greater than 21.9, with a 100 percent reduction of the amount to which the district would otherwise be eligible for each such class.

(g) Interview management regarding the district's staff development program.

(1) Verify that the staff development program required, as set forth in Education Code Section 52127, that any certificated teacher providing direct instruction to a class in the Class Size Reduction Program receive the appropriate training necessary to maximize the educational advantages of Class Size Reduction, including but not limited to methods for providing individualized instruction; effective teaching, including classroom management, in smaller classes; identifying and responding to student needs; and opportunities to build on the individual strengths of students.

(2) If the district did not have a staff development program as set forth in Education Code Section 52127, include a finding in the Findings and Recommendations section of the audit report showing the full amount of Class Size Reduction funding received as disallowed.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503 and 41020, Education Code.

HISTORY

1. Renumbering of section 19826.1 to section 19845.1 filed 6-9-2006; operative 6-9-2006 (Register 2006, No. 23).

§ 19846. After School Education and Safety Program.

If the local education agency received After School Education and Safety funds, perform the following procedures:

(a) If the local education agency operated an after school program component:

(1) Determine whether the local education agency established a policy regarding reasonable early daily release of pupils from the program.

(2) Select a representative sample of schools for each program type, as that term is used in the attendance report, for which data was reported to the California Department of Education for the after school base grant program. Determine whether the reported number of students served, as that term is used in the report, for each selected school is supported by written records that document pupil participation, by tracing the reported numbers through any documentation used to summarize the numbers of students served, to written data origination documentation.

(3) For each school selected pursuant to subparagraph (a)(2) of this section, determine whether the after school program commenced every day immediately upon the conclusion of the regular schoolday, operated a minimum of 15 hours per week, and operated until at least 6:00 p.m. every regular schoolday, by reviewing, for example, local policies and

procedures, program staffing schedules, sign in/out sheets, program brochures, and other relevant documentation.

(4) For each school selected pursuant to subparagraph (a)(2) of this section, determine whether elementary school pupils participated in the full day of the after school program on every day during which pupils participated, and determine whether pupils in middle or junior high schools attended the after school program a minimum of nine hours a week and three days a week, except as consistent with the established early release policy.

(5) If any noncompliance is found through the foregoing procedures, include a statement in the Findings and Recommendations section of the audit report, stating that the local education agency did not have a policy on reasonable early daily release from the after school program, if that is the case, and including discrepancies, if any, between the reported numbers of students served and the totals arising from the supporting documentation; failure to operate consistent with the days/hours requirements set forth in subparagraph (a)(3) of this section, if any; and the portion of reported students served that resulted from attendance, inconsistent with the established early release policy, by elementary school pupils for less than the full day of the after school program, and from attendance by middle or junior high school pupils for less than nine hours a week or fewer than three days a week, if any.

(b) If the local education agency operated a before school program component:

(1) Determine whether the local education agency established a policy regarding reasonable late daily arrival of pupils to the program.

(2) Select a representative sample of schools for each program type, as that term is used in the attendance report, for which data was reported to the California Department of Education for the before school base grant program. Determine whether the reported number of students served, as that term is used in the report, for each selected school is supported by written records that document pupil participation, by tracing the reported numbers through any documentation used to summarize the numbers of students served, to written data origination documentation.

(3) For each school selected pursuant to subparagraph (b)(2) of this section,

(A) Determine whether the local education agency operated the before school program for not less than one and one-half hours per regular schoolday, by reviewing, for example, local policies and procedures, program staffing schedules, sign in/out sheets, program brochures, and other relevant documentation.

(B) Determine whether attendance by pupils for less than one-half of the daily program hours was included in the report of students served.

(4) For each school selected pursuant to subparagraph (b)(2) of this section, determine whether elementary school pupils participated in the full day of the before school program on every day during which pupils participated, and determine whether pupils in middle or junior high schools attended the before school program a minimum of six hours a week and three days a week, except as consistent with the late arrival policy.

(5) If any noncompliance is identified through the foregoing procedures, include a statement in the Findings and Recommendations section of the audit report, stating that the local education agency did not have a policy on reasonable late daily arrival of pupils to the before school program, if that is the case, and including discrepancies, if any, between the reported numbers of students served and the totals arising from the supporting documentation; failure to operate for the required hours each schoolday as set forth in subparagraph (b)(3)(A) of this section, if any; and the portion of reported students served that resulted from attendance, inconsistent with the established late arrival policy, by elementary school pupils for less than the full day of the before school program, and by middle or junior high school pupils for less than six hours a week or fewer than three days a week, if any.

(c) General requirements:

(1) Verify that the local education agency contributed cash or in-kind local funds, equal to not less than one-third of the total state grant, which

may have originated from the school district, other governmental agencies, community organizations, or the private sector. Facilities or space usage may fulfill not more than 25 percent of the required local contribution.

(2) Review program expenditures by performing the following procedures:

(A) Verify that expenditures of state funds for indirect costs were the lesser of the local education agency's indirect cost rate as approved by the California Department of Education for the year audited, or 5 percent of the state funding received.

(B) Verify that not more than 15 percent of the state funding was expended for administrative costs, including indirect costs charged to the program.

(C) Verify that not less than 85 percent of the state funding was allocated to schoolsites for direct services to pupils.

(3) If the local education agency did not meet the minimum cash or in-kind local contribution requirement, spent state program funding on excess indirect costs or on excess administrative costs, provided an insufficient allocation to schoolsites, or any combination of the foregoing, include a finding in the Findings and Recommendations section of the audit report stating, correspondingly, the amount of the local match requirement, the amount by which the local education agency failed to meet the match requirement, the excess amount of the local match requirement fulfilled through facilities or space usage, the amount(s) inappropriately spent, and the amount of the insufficiency in schoolsite allocations.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 8482.3, 14502.1, 14503 and 41020, Education Code.

HISTORY

1. New section filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).
3. Amendment of subsections (a)(2), (a)(5) and (b)(2) filed 6-9-2008 as an emergency; operative 6-9-2008 (Register 2008, No. 24). A Certificate of Compliance must be transmitted to OAL by 12-8-2008 or emergency language will be repealed by operation of law on the following day.

Article 4. State Compliance Procedures: Charter Schools

§ 19850. Contemporaneous Records of Attendance.

(a) Determine whether the Second Principal report of attendance submitted to the California Department of Education is supported by written contemporaneous records that document all pupil attendance included in the charter school's Average Daily Attendance calculations, by tracing the Average Daily Attendance numbers from the Second Principal report of attendance through any documentation used by the charter school to summarize attendance, to written contemporaneous data origination documents.

(b) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedure, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.

HISTORY

1. New article 4 (sections 19850-19854) and section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-6-2005 order, including amendment of NOTE, transmitted to OAL 8-26-2005 and filed 10-11-2005 (Register 2005, No. 41).
3. Amendment of article heading filed 2-17-2006 as an emergency; operative 2-17-2006 (Register 2006, No. 7). A Certificate of Compliance must be trans-

mitted to OAL by 6-19-2006 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 2-17-2006 order, including further amendment of article heading, transmitted to OAL 4-27-2006 and filed 6-9-2006 (Register 2006, No. 23).

§ 19851. Mode of Instruction.

(a) If Average Daily Attendance was reported to the California Department of Education by the charter school as generated through classroom-based instruction, determine whether that attendance was generated in compliance with all of the following conditions:

(1) The charter school's pupils were engaged in educational activities required of those pupils, and the pupils were under the immediate supervision and control of an employee of the charter school who possessed a valid teaching certification in accordance with the provisions of subdivision (l) of Education Code Section 47605.

(2) At least 80 percent of the instructional time offered at the charter school was at the schoolsite. The requirement to be "at the schoolsite" is satisfied if either of the conditions set forth in subdivision (b) of Section 11963 is met.

(3) The charter school's schoolsite was a facility that was used principally for classroom instruction as that term is defined in subdivision (b)(1) of Section 11963.

(4) The charter school required its pupils to be in attendance at the schoolsite at least 80 percent of the minimum instructional time required pursuant to the provisions of subdivision (a)(1) of Education Code Section 47612.5.

(b) If any Average Daily Attendance reported to the California Department of Education as classroom-based instruction was not generated in compliance with all of the preceding conditions, it is not eligible for apportionments unless it was generated in full compliance with the requirements set forth in Section 19852. If it was not generated in full compliance with the requirements set forth in Section 19852, include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-6-2005 order, including amendment of first paragraph and NOTE, transmitted to OAL 8-26-2005 and filed 10-11-2005 (Register 2005, No. 41).
3. Amendment of subsection (b) filed 2-17-2006 as an emergency; operative 2-17-2006 (Register 2006, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-19-2006 or emergency language will be repealed by operation of law on the following day.
4. Change without regulatory effect amending subsection (c)(3) filed 5-12-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 19).
5. Certificate of Compliance as to 2-17-2006 order, including further amendment of subsection (b), transmitted to OAL 4-27-2006 and filed 6-9-2006 (Register 2006, No. 23).
6. Change without regulatory effect renumbering section 19851 to section 19852 and renumbering section 19852 to section 19851, including amendment of section heading and subsections (a) and (b), filed 3-1-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 19852. Nonclassroom-Based Instruction/Independent Study.

If Average Daily Attendance was reported by the charter school to the California Department of Education as generated through nonclassroom-based instruction (independent study), or was reported as generated through classroom-based instruction but was not generated in compliance with all of the conditions set forth in subdivision (a) of Section 19851, perform the following procedures:

(a) Determine whether the governing body of the charter school had adopted written policies for independent study as required by the provisions of Education Code Section 51747. If it had not, any reported Aver-

age Daily Attendance generated through independent study is not eligible for apportionment. If the required policies were in place, determine whether any reported Average Daily Attendance was generated before the written policies were adopted. Any reported Average Daily Attendance generated through independent study before the written policies were adopted is not eligible for apportionment.

(b) Verify the charter school's calculation, made pursuant to Section 11704, of ineligible Average Daily Attendance, if any, generated through full-time independent study.

(c) Verify that the documentation used by the charter school to summarize monthly attendance provides accurate information. If the charter school had multiple sites through which it provided independent study, select a sample of school sites that is representative of the charter school's grade spans (elementary, middle, and high schools) and sufficient in size to allow the auditor to draw a reasonable conclusion with respect to the charter school's compliance with independent study requirements. Perform the following procedures:

(1) Determine the total number of days of attendance reported for each sampled site that resulted from attendance by pupils while engaged in independent study. Reconcile the monthly totals (days of apportionment attendance) on the site's attendance summary to the summary maintained by the charter school for the Second Principal attendance report.

(2) Select a test month in the Second Principal attendance reporting period. Verify the mathematical accuracy of the monthly report, or its equivalent if no monthly report is prepared, and trace totals to the site's attendance summary.

(3) Verify that a certificated employee of the charter school, as defined by Section 11700.1, coordinated, evaluated, and provided general supervision, as that term is defined in Section 11700(b), of each pupil's independent study, as required by the provisions of subdivision (a) of Education Code Section 51747.5.

(4) Select a representative sample of teachers. Verify the mathematical accuracy of the teachers' attendance records of pupil attendance. Trace the monthly totals from the monthly report to the attendance records.

(d) From the attendance records, select a representative sample of pupils for whom Average Daily Attendance generated through independent study was claimed, including pupils on intermittent ("short term") independent study, if the charter school offered that option, and perform the following procedures:

(1) Determine each pupil's county of residence at the time of commencing independent study and verify that it is the county in which the apportionment claim is reported or a contiguous county within California.

(2) Determine whether mailing addresses or other evidence of residency changed during the time the pupils were in independent study and, if so, whether each pupil remained a resident of the same or a contiguous county within California.

(3) Verify that, on each day for which a pupil's attendance was reported, the pupil engaged in an educational activity or activities required of him or her by the charter school.

(4) Verify that each day of each pupil's attendance included in calculations of Average Daily Attendance took place on one of the charter school's schooldays.

(5) Verify that a total of not more than one day of attendance was recorded for each pupil for any calendar day on which school was in session.

(6) Verify that a written agreement exists for each pupil.

(7) Verify that every written agreement contained all the elements required by the provisions of Education Code Section 51747(c):

(A) The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.

(B) The objectives and methods of study (pupil activities selected by the supervising teacher as the means to reach the educational objectives set forth in the written agreement) for the pupil's work.

(C) The methods utilized to evaluate that work (any specified procedure through which a certificated teacher personally assesses the extent

to which achievement of the pupils meets the objectives set forth in the written assignment).

(D) The specific resources, including materials and personnel, to be made available to the pupils (resources reasonably necessary to the achievement of the objectives in the written agreement, not to exclude resources normally available to all pupils on the same terms as the terms on which they are normally available to all pupils).

(E) A statement of the policies adopted pursuant to the provisions of subdivisions (a) and (b) of Education Code Section 51747 regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of assignments a pupil may miss before there must be an evaluation of whether it is in the pupil's best interests to continue in independent study.

(F) The duration of the independent study agreement, including the beginning and ending dates for the pupil's participation in independent study under the agreement, with no agreement being for a period longer than one semester, or one-half year for a school on a year-round calendar.

(G) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

(H) A statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate.

(I) Signatures, affixed prior to the commencement of independent study, by

1. the pupil;

2. the pupil's parent, legal guardian, or caregiver as that term is used in Family Code Section 6550 and following, if the pupil was less than 18 years of age;

3. the certificated employee who was designated as having responsibility for the general supervision of the pupil's independent study; and

4. all other persons, if any, who had direct responsibility for providing assistance to the pupil.

(8) Verify that no days of attendance were reported for dates prior to the signing of the agreement by all parties.

(9) Verify that evaluated pupil work samples, bearing signed or initialed and dated notations by the supervising teacher indicating that he or she personally evaluated the work, or that he or she personally reviewed the evaluations made by another certificated teacher, have been retained in the file.

(c) If any inappropriately reported units of Average Daily Attendance are identified through the foregoing audit procedures, recalculate, consistent with the provisions of Education Code Section 46303, the correct number of units of Average Daily Attendance. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-6-2005 order, including amendment of NOTE, transmitted to OAL 8-26-2005 and filed 10-11-2005 (Register 2005, No. 41).

3. Change without regulatory effect renumbering section 19852 to section 19851 and renumbering section 19851 to section 19852, including amendment of first paragraph, filed 3-1-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 19853. Determination of Funding for Nonclassroom-Based Instruction.

If more than 20 percent of the charter school's total Average Daily Attendance was generated through nonclassroom-based instruction (independent study) as set forth in Section 19852, perform the following procedures:

(a) Determine whether the charter school has

(1) a multi-year funding determination, made pursuant to the provisions of subdivision (d) of Education Code Section 47612.5 and of Section 47634.2, that applies to the year being audited and that was granted in a year prior to the year being audited, or

(2) a funding determination otherwise applicable to the year audited.

(b) If the charter school does not have either type of funding determination specified in subdivision (a) of this section, the charter school was not eligible for funding for any Average Daily Attendance generated through nonclassroom-based instruction. Include a statement in the Findings and Recommendations section of the audit report of the number of units of Average Daily Attendance that were inappropriately reported for apportionment and an estimate of their dollar value.

(c) If the charter school has a funding determination as specified in subdivision (a)(2) of this section, and the charter school was in operation in the fiscal year prior to the year being audited, verify the accuracy of the following data submitted by the charter school to the California Department of Education on the nonclassroom-based funding determination form applicable to the year being audited:

(1) The charter school's federal revenues, including start-up, implementation, and dissemination grant(s); state revenues; local revenues, including in lieu of property taxes; and other financing sources.

(2) The charter school's total expenditures for instruction and related services.

(3) The charter school's total expenditures for salaries and benefits for all certificated employees as defined in subdivision (c)(1) of Section 11963.3.

(4) The charter school's pupil-teacher ratio calculated pursuant to Section 11704, and, if submitted, the pupil-teacher ratio of the largest unified school district in the county or counties in which the charter school operates.

(5) The listing of entities that received, in the previous fiscal year, \$50,000 or more or ten (10) percent or more of the charter school's total expenditures identified pursuant to subparagraphs (B), (C), (D), and (E) of subdivision (a)(5) of Section 11963.3; the amount received by each entity; whether each of any such contract payments was based upon specific services rendered or upon an amount per unit of Average Daily Attendance or some other percentage; and an identification of which entities, if any, had contracts that included provision for payments based on a per unit of Average Daily Attendance amount or some other percentage.

(d) If any inaccurate data is identified through the immediately foregoing audit procedures, prepare a schedule displaying the inaccurate data and the corresponding correct data. Include the schedule in the Findings and Recommendations section of the audit report.

(e) If a funding determination applicable to the year audited was made for the charter school by the State Board of Education, pursuant to the provisions of Education Code Section 47634.2, confirm that the governing board of the charter school has adopted and implemented conflict of interest policies as required by subdivision (b)(1)(C) of Section 11963.3. If the governing board of the charter school has not adopted, or has adopted but has not implemented, conflict of interest policies as required, include a statement in the Findings and Recommendations section of the audit report that states the policies were not adopted, if that is the case; or that the policies were not implemented, if that is the case, and describes the relevant facts.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020 and 47634.2, Education Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-6-2005 order, including amendment of sub-

section (c), transmitted to OAL 8-26-2005 and filed 10-11-2005 (Register 2005, No. 41).

3. Amendment of subsections (c)(4)-(5) filed 2-17-2006 as an emergency; operative 2-17-2006 (Register 2006, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-19-2006 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 2-17-2006 order, including further amendment of subsection (c)(4), transmitted to OAL 4-27-2006 and filed 6-9-2006 (Register 2006, No. 23).

5. Change without regulatory effect amending first paragraph filed 3-1-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 9).

§ 19854. Annual Instructional Minutes — Classroom Based.

(a) Review the charter school's attendance calendar and bell (class) schedules or other available comparable documentation. If the charter school has multiple sites, select a sample of school sites that is representative of the charter school's grade spans (elementary, middle, and high schools).

(b) For each sampled site, compare the amount of instructional minutes offered for each grade level during the year being audited to the amount of instructional minutes required pursuant to the provisions of subdivision (a)(1) of Education Code Section 47612.5 as set forth below:

Kindergarten	36,000 minutes
Grades 1 through 3	50,400 minutes
Grades 4 through 8	54,000 minutes
Grades 9 through 12	64,800 minutes

(c) Determine whether the charter school offered optional classes to satisfy instructional minutes requirements. If enrollment in optional classes was low, review the charter school's documentation of class offerings to ensure that the charter school acted effectively to comply with the law. Practices that are not consistent with effectively offering instructional time may include, but are not limited to, offering only a small number of courses that in addition are appropriate only for limited numbers of pupils, and courses scheduled such that pupils may take them only by giving up their lunch period.

(d) Prepare the "Schedule of Instructional Time" that must be presented in the Supplementary Information section of the audit report, showing by grade span the minimum instructional minutes requirements specified in subdivision (a)(3) of Education Code Section 46201, the instructional minutes offered during the year being audited showing the sampled site with the lowest number of minutes offered at each grade span; and whether the charter school complied with the instructional minutes provisions.

(e) If the charter school did not offer the required number(s) of instructional minutes, prepare a separate schedule for each site, showing only the grade level(s) that were not in compliance, and calculate a proportional reduction in apportionment consistent with the provisions of subdivision (c) of Education Code Section 47612.5. Include both the schedule(s) and the calculated reduction in apportionment, in a finding in the Findings and Recommendations section of the audit report.

NOTE: Authority cited: Section 14502.1, Education Code. Reference: Sections 14502.1, 14503, 41020, 47612.5 and 47634.2, Education Code.

HISTORY

1. New section filed 5-6-2005 as an emergency; operative 5-6-2005 (Register 2005, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-6-2005 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 5-6-2005 order, including amendment of NOTE, transmitted to OAL 8-26-2005 and filed 10-11-2005 (Register 2005, No. 41).

3. Amendment of subsection (b) filed 5-18-2007 as an emergency; operative 5-18-2007 (Register 2007, No. 20). A Certificate of Compliance must be transmitted to OAL by 11-14-2007 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 5-18-2007 order transmitted to OAL 8-1-2007 and filed 9-10-2007 (Register 2007, No. 37).

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Division 2. California State Library

Chapter 1. Library Services Provided by the State

Subchapter 1. State Library

Article 1. General Provisions

§ 20000. Loan Period.

- (a) Books and like materials are lent for five weeks.
- (b) Periodicals are lent for three weeks.
- (c) Foreign language fiction is lent for three months.
- (d) Exceptions to the above loan periods may be made for certain types of material or for special needs of the borrower.

NOTE: Authority cited for Chapter 1: Sections 19304 and 19320, Education Code. Issuing agencies: State Board of Education and Superintendent of Public Instruction. Reference: Sections 19320 and 19330, Education Code.

HISTORY

1. Editorial renumbering of Chapter 2, Subchapter 1, to Division 24, Chapter 1 (Register 69, No. 51). For prior history see Register 66, No. 2.
2. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
3. Amendment of subsection (c) filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).
4. Editorial renumbering of Division 1, Chapter 24 (sections 20000-20400) to Division 2, Chapter 1, and editorial renumbering of former Division 2, Chapter 1 (Sections 20410-20426) to new Division 2, Chapter 2 (Register 2001, No. 45). For prior history, see Register 90, No. 50.

§ 20002. Replacement Copies of a Book.

NOTE: Authority cited: Sections 19304 and 19320, Education Code. Reference: Sections 19304, 19320 and 19332-19334, Education Code.

HISTORY

1. Amendment filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
2. Repealer filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

§ 20003. Payment for Photostatic Copies.

(a) A private individual or a firm shall pay in advance of delivery for photostatic copies, or any other item that may be sold by the State Library.

(b) Public agencies may buy and receive delivery of such copies or other items, and be billed later for the purchase price.

NOTE: Authority and reference cited: Sections 19304 and 19320, Education Code.

HISTORY

1. New NOTE filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

§ 20004. Use of Books on Library Premises.

Any person may use in reading rooms of the State Library any books, periodicals, and like material. He shall not, however, mark, cut, tear, deface, or remove any pages or parts thereof. Any person who does so, may thereafter be denied the use of any library material.

NOTE: Authority and reference cited: Sections 19304 and 19320, Education Code.

HISTORY

1. New NOTE filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

Article 2. Interlibrary Loans

§ 20020. General Policies.

State Library books and materials which are permitted to circulate shall be made available to inhabitants of the State through a loan service.

(a) Where there is a local library, all requests for loan of State Library materials shall be made through a local library, except as provided in Section 20050.

(b) In addition to borrowing through any library which they are entitled to use, high school students in schools where no established school library exists may borrow through a high school district employee designated by the proper school authorities to handle library requests.

(c) Direct service to individuals may be made as provided in Section 20050.

NOTE: Authority cited: Sections 19304 and 19320, Education Code. Reference: Sections 19320 and 19330, Education Code.

HISTORY

1. Amendment of subsection (b) filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

§ 20021. Request for Loan.

The State Library shall loan any book or periodical which is available for loan purposes to any other public or private library in California upon receipt of a request from the borrowing library.

NOTE: Authority and reference cited: Sections 19304 and 19320, Education Code.

HISTORY

1. New NOTE filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

Article 3. Service to Individuals

§ 20050. Direct Library Loan Service to Individuals.

The State Library shall give direct library loan service to the following persons only, and upon proper identification:

- (a) Members of the California Legislature.
- (b) Legislative staff members, State officers and employees.
- (c) Accredited representatives of the Capitol Correspondents Association as published in most recent legislative histories.
- (d) Employees, located in Sacramento, of Organizations Representing California State Employees as verified by the State Personnel Board.
- (e) A resident of the State in an area where no local library service is available.

NOTE: Authority cited for Article 3: Sections 19304 and 19320, Education Code. Reference: Sections 19320 and 19330, Education Code.

HISTORY

1. Amendment filed 3-19-71; effective thirtieth day thereafter (Register 71, No. 12).
2. Amendment filed 1-25-72; effective thirtieth day thereafter (Register 72, No. 5).
3. Amendment of subsection (b) filed 4-18-75; effective thirtieth day thereafter (Register 75, No. 16).
4. Amendment of NOTE filed 9-23-77; effective thirtieth day thereafter (Register 77, No. 39).
5. Amendment of NOTE filed 5-5-82; effective thirtieth day thereafter (Register 82, No. 19).

Subchapter 2. California Library Services

Article 1. General Provisions

§ 20100. Scope.

The regulations contained in this chapter shall implement the California Library Services Act, Chapter 4 of Part 11 of Division 1 of Title 1 of the Education Code, beginning with section 18700 thereof.

NOTE: Authority and reference cited for Article 1 (Sections 20100-20106, consecutive): Chapter 4 (Section 18700, et seq.) of Part 11, Education Code. Issuing agency: California Library Services Board.

HISTORY

1. New Article 1 (Sections 20100-20106, consecutive) filed 7-20-78; effective thirtieth day thereafter (Register 78, No. 30).

§ 20101. General Provisions.

(a) The State Board finds that it is in the best interests of the citizens of California and best fulfills the purposes of the Act (Chapter 4, part 11, Division 1, Title 1, Education Code) that libraries participating in any one program of the Act participate in all applicable programs of the Act.

(b) Any public library participating in programs of the Act shall, under section 18724(h) of the Act, provide access to the library's bibliographic

and location data upon request from the State Board for inclusion in the appropriate data base established by the State Board in implementation of the Act. The access shall be provided in such form, manner, and frequency as are agreed upon between the State Board and the library.

(c) Funding distributed according to California Library Services Act provisions may not be used to support other than library purposes. To comply with Education Code Section 18703(c), the funding may not be used to replace local funds for library services, but only to supplement the local funding to further the purposes of the Act.

(d) A public library participating in any program of the Act must participate in the direct loan transaction reporting, whether the library participates in either of the direct loan programs or not. During the designated transaction reporting periods all CLSA participating libraries must record all direct loans made to eligible residents of other jurisdictions whose libraries are participating in the direct loan programs, as long as the handling costs of paid loans are not being covered in whole, or in part, by CLSA funds in addition to direct loan reimbursement funds, LSCA funds, or by funds provided by the jurisdiction of the eligible non-resident.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18700–18703, and 18724, Education Code.

HISTORY

1. New subsection (d) filed 9–21–79 as an emergency; effective upon filing (Register 79, No. 38). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 1–19–80.>
2. Certificate of Compliance filed 1–17–80 (Register 80, No. 3)
3. Amendment of subsection (d) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20102. Special Filing Provisions for 1978/79.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18700–18767, Education Code.

HISTORY

1. Repealer filed 1–30–81; effective thirtieth day thereafter (Register 81, No. 5).

§ 20103. Waiver of Filing Date.

The State Board may waive or reset any filing dates required by these regulations, if the State Board determines that so doing would best serve the purposes of the Act.

§ 20104. Eligibility to Participate.

Funding under any program of the Act shall be provided only to libraries which are physically and administratively located within California and which meet any additional eligibility criteria required for specific program participation.

§ 20105. General Requirements for Participation.

(a) Public Library Participation Authorization. Every public library wishing to participate in any of the programs of the Act must file with the State Board an authorization by the jurisdictional governing body for that library's participation. The authorization must be in the form and manner and be filed by the date specified by the State Board.

(b) Public Library Certification. Upon the authorization by the jurisdictional governing body, the head librarian of each public library wishing to participate in the programs of the Act must file a certification of compliance with provisions of the Act. This certification shall remain in effect until the library jurisdiction no longer complies with the stated provisions. The certification shall specifically include compliance with Education Code Sections 18703(c) and 18724(e).

If the library or jurisdiction is no longer in compliance, the head librarian shall notify the Board no later than thirty days following such a change in compliance status.

(c) Participation by Libraries other than Public Libraries. The head librarian of such library eligible to participate in any of the programs of the Act and wishing to do so must file with the State Board a notice of its intent to participate and of its agreement to the provisions of the Act and administrative regulations as they apply to the library's participation. This notice shall be filed in such form and manner as specified by the State Board by September 1 of the fiscal year preceding active participa-

tion. The agreement shall remain in effect until rescinded by the State Board or the library.

(d) Reports, Applications, and Claims. Any budget documents, reports, applications, and claims for funds pursuant to this Act shall be submitted by participating libraries in such form and manner and by the dates established by the State Board.

(e) No public library participating in the programs of the Act may charge its residents, as defined in section 20203, any fee to obtain a library card nor for services for which it is receiving reimbursement under the California Library Services Act.

(f) The California Library Services Board believes that it is in the best interests of the citizens of California that the information services of public libraries be provided free of charge.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18700–18767, Education Code.

HISTORY

1. New subsections (e) and (f) filed 3–8–79; effective thirtieth day thereafter (Register 79, No. 10).
2. Amendment of subsections (b) and (c) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20106. Uniform Population Statistics.

Any funds distributed per capita shall be awarded using the most recently published and available combined estimate for cities and counties from the California State Department of Finance.

§ 20107. Definitions.

(a) The definitions concerning California Library Services Act components set forth in Education Code Section 18710 are hereby incorporated by reference, with additions as noted in subsection (b) of this section. The definitions incorporated by reference are accurate to California Statutes 1979.

(b) Additions to the regulations hereby incorporated are as follows:

(1) "Chief Executive Officer" means the State Librarian.

(2) "President" means the elected President of the Board.

(3) "Public library affiliation" means the formal and legal joining to a System (i.e. the obtaining of full System membership status) by a public library not previously a member of any System. A Public Library Affiliation is not considered complete until all necessary local System and jurisdictional agreements have been approved and are in force, and the State Board has approved the affiliation.

(4) "Public library consolidation" means the formal and legal joining of the functions, services, operations, etc. of two or more formerly independent public libraries into a single public library, as defined in Education Code Section 18710 (e). A Public Library Consolidation is not considered complete until all necessary local jurisdictional agreements have been approved and are in force, and the State Board has approved the consolidation (see Administrative Code Section 20180, below).

(5) Reference collection. Reference collection means a collection of materials, both print and non-print, designed primarily for use in answering requests for information.

(6) Reference specialist. Reference specialist means a trained and experienced librarian who can provide reference referral services and who can also understand how to approach the community in general and the undeserved in particular, together with appropriate skills in analysis of information needs and design and implementation of reference programs responsive to those needs. A reference specialist may be employed in providing any of the services for which he/she is qualified.

(7) "Secretary" means the Executive Secretary of the Board.

(8) "State Board" means the California Library Services Board.

(9) "System consolidation" means the formal and legal joining of geographic service areas, functions, operations, etc. of two or more formerly separate Systems into a single Cooperative Library System, as defined in Education Code Section 18710 (c). A System Consolidation is not considered complete until all necessary local System consolidation agreements have been approved and are in force, and until the State Board has approved the consolidation (see Administrative Code Section 20185, below).

(10) "Valid non-resident borrowers card" means a card that is issued free of charge by a public library to a resident of another jurisdiction which maintains a public library, as long as such card meets all of the legal requirements of the issuing library.

(11) "Vice-President" means the elected Vice-President of the Board.
NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18700–18767, Education Code.

HISTORY

1. New section filed 10–24–79; effective thirtieth day thereafter (Register 79, No. 43).
2. Amendment of subsection (b) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).

Article 2. California Library Services Board Procedures

§ 20116. Officers of the State Board.

The State Board shall elect a President and Vice-President. The State Librarian shall be the Chief Executive Officer of the State Board.

(a) The State Board shall annually elect a President and Vice-President at the first regular meeting of each calendar year.

(b) Should a vacancy occur in the Office of President or Vice-President, the State Board shall at its next regular meeting elect one of its members to fill such vacancy for the remainder of the term.

(c) Duties of President. The President shall preside at all meetings of the State Board, shall execute for the State Board any documents requiring such execution, and shall perform such other duties as the State Board so provides.

(d) Duties of Vice-President. The Vice-President shall in the absence of the President perform any of the duties of President that cannot reasonably await the President's return.

(e) Duties of the Chief Executive Officer.

(1) Make such reports and recommendations to the State Board as he deems desirable and appropriate or as may be required by the State Board.

(2) Administer the provisions of this chapter.

(3) Review all claims to ensure programmatic and technical compliance with the provisions of this chapter.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18720 and 18724, Education Code.

HISTORY

1. New Article 2 (Sections 20116–20134, not consecutive) filed 7–20–78; effective thirtieth day thereafter (Register 78, No. 30).
2. Amendment of subsection (e) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20117. Quorum.

A quorum for all State Board meetings shall be seven (7) members. The concurrence of 7 of its members shall be necessary to the validity of all actions of the State Board.

§ 20118. Regular Meetings.

(a) Date. Regular meetings of the State Board shall take place at least bi-monthly on the third Thursday of the months of February, April, June, August, October; the December meeting shall be held in conjunction with the California Library Association conference.

(b) Place. The tentative locations for the regular meetings of the following calendar year shall be determined annually, at the last regular meeting of the calendar year.

(c) Change of date or place. Nothing in this regulation shall be construed to prevent the State Board from altering its regular meeting dates or places of meeting.

(d) Meeting notice. A notice of regular meetings shall be provided at least seven days prior to the meeting date to any person annually requesting such notice under section 20119 below. Such notice shall include the time, date, and place of the regular meeting and a copy of the agenda therefor.

1. Repealer and new subsection (a) file 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).

2. Amendment of subsection (b) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20119. Notices.

(a) Eligibility. Notice of any regular or special public meeting of the State Board shall be given to any person annually requesting under section 20119(b).

(b) Procedure. Individuals and organizations wishing to receive notice of regular and special meetings of the State Board and copies of the agenda may annually request the Secretary to include their names on the mailing list. Inclusion on the mailing list will result in notification to the addressee of all regular and special meetings of the State Board. The Secretary shall annually notify interested agencies and organizations that, upon request, they are entitled to be placed on the mailing list.

§ 20120. Open Meetings of Committees, Commissions, and Advisory Bodies.

(a) State Board Committees. Meetings of State Board committees composed solely of members of the State Board, created by a formal action of the State Board, shall be open and public.

(b) Advisory Bodies. Unless otherwise provided by law, meetings of any advisory body, or committees or subcommittees thereof, created by statutes or by formal action of the State Board, to advise or report or recommend to the State Board, shall be open and public.

§ 20121. Open Meetings.

All meetings of the State Board will be open and public except for executive sessions authorized by Government Code Sections 11120–11131.

§ 20122. Special Meetings.

Special meetings may be called by the President of the State Board or a majority of the members thereof for any stated purpose. Notice of such meetings shall be provided at least 24 hours in advance to those persons so requesting under section 20119(b).

§ 20123. Emergency Meetings and Agenda Items.

(a) Power. An emergency meeting may be called by the President of the State Board or a majority of the members thereof without providing the notice required by section 20119 if there is an unforeseen emergency condition in existence.

(b) Definition. An unforeseen emergency condition exists when there is an immediate threat of adverse effects on the program authorized by the Act of such scope that requires action of the State Board to avert such effects.

(c) Agenda Items. An item may be included on the agenda of any regular meeting if an unforeseen emergency condition exists without the notice required by section 20119.

(d) Certification. Concurrence of 7 of the members is required to certify that an emergency condition exists in order to take any action at an emergency meeting or regarding an emergency item.

(e) Notice. If reasonably possible, notice of the emergency item or meeting shall be provided to those so requesting under section 20119(b). Lack of such notice shall not invalidate any action taken on said item or at said meeting.

§ 20124. Agenda.

(a) All matters to be submitted for consideration of the State Board shall be sent to the Secretary at least 10 days preceding a regular meeting of the State Board, at California Library Services Board, P.O. Box 2037, Sacramento, CA. 95809.

(b) Setting of Agenda. The agenda for regular meetings of the State Board shall be set by the Chief Executive Officer at least 8 days prior to the meeting.

§ 20125. Speakers.

(a) Recognition of Speakers. Members of the public or the State Library staff will be recognized by the President of the State Board to speak

at any meeting. All remarks made shall be germane to the business at hand and shall be addressed to the President. No person other than the person having the floor and members of the State Board shall be permitted to enter the discussion.

(b) Subject of Remarks. All speakers before the State Board shall confine their remarks to the subject indicated in their written request, or indicated in the recognition by the President.

§ 20127. Robert's Rules of Order.

Except where the provisions of the California Library Services Act of 1977 or of these regulations provide to the contrary, or when the State Board determines otherwise, the State Board shall operate under the latest edition of Robert's Rules of Order.

§ 20130. Public Hearings.

(a) Notice. The State Board may hold a public hearing regarding any matter pending before it, after giving the 45-day notice as required by the California Administrative Procedures Act. Such notice shall include adequate descriptive matter relating to the subjects to be considered in hearing.

(b) Alternative hearing. The State Board may direct that a public hearing be held before staff of the State Library, an advisory commission to the State Board, or a standing or ad hoc committee of the State Board regarding any matter which is, or is likely to be, pending before the State Board.

(c) Speakers.

(1) Notice. Persons wishing to address the State Board on a subject to be considered at a public hearing, should present a request to the Secretary four (4) working days in advance of the meeting at the office of the Secretary, stating the subject they wish to address, the organization they represent, if any, and the nature of their testimony. Persons wishing to address the Board, who have not presented a request four days in advance, may be heard at the discretion of the presiding officer.

(2) Copies of Statement. The speaker may provide a written copy of his statement to the Secretary 24 hours in advance of the hearing.

(3) Public Testimony. At or before the hearing at which oral comments from the public are to be received, the State Board or other hearing body shall determine the total amount of time that will be devoted to hearing such oral comments, and may, at its discretion, determine the time to be allotted to each person or to each side of an issue.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18720, and 18724, Education Code.

HISTORY

1. Amendment of subsection (a) filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20131. Waiver by Presiding Officer.

At any time upon a showing of good cause, the presiding officer of the hearing may waive the requirements of Sections 20130.

§ 20134. Public Records.

(a) Inspection of Public Records.

(1) Inspection of the original copy of any public record of the State Board (as defined in Government Code section 6252(d) and 6254) will be permitted during regular office hours of the State Library, Library-Courts Building, Sacramento.

(2) Requests to inspect such records should be filed with the Secretary at least five working days prior to the requested date in order to insure availability.

(3) Requests for inspection should be as specific as possible in identifying the records desired.

(4) Original copies of public records shall not be removed from the office the Secretary.

(b) Obtaining Copies of Public Records.

(1) Requests to obtain copies of public records may be made in person or by mail to the office of the Secretary.

(2) Such requests should be as specific as possible in identifying the records desired.

(3) Certification of the authenticity of copies may be obtained from the Secretary.

Article 3. General Provisions for Systems

§ 20135. System Budget Request and Plan of Service.

Each System participating in programs of the Act shall adopt a System Plan of Service, developed with the assistance of the System Advisory Board, and prepare a budget for carrying out the objectives of the Plan. After discussion and review by the System Advisory Board, and approval by the Administrative Council, the System budget request and Plan of Service shall be annually submitted to the State Board by June 1 of the fiscal year immediately preceding the fiscal year for which funds are requested.

(a) Plan of Service. The annual Plan of Service shall describe in the form and manner prescribed by the State Board how the System proposes to carry out the purposes of the Act, and it shall include information relative to the following statements:

(1) A population profile. This shall be no more than five years old, and shall use the most current data available.

(2) A description of the users and the non-users of the services of the members of the System.

(3) A description of the services provided by the System.

(4) A list of the major unmet information needs of the population of the System area.

(5) A plan for the use of CLSA funds, listing each of the services in (3) above which the System plans to maintain or improve, and each of the unmet needs in (4) above which the System plans to address. Under each such service to be provided or unmet needs to be addressed, the plan shall include:

(A) The user benefit expected.

(B) A brief description of the method by which the benefit will be provided.

(b) Budget. The System budget shall document in the form and manner prescribed by the State Board the dollar amounts to be expended for providing each System service or addressing each unmet need.

(c) In addition, each System shall file by September 1 of each year a report, in the form and manner prescribed by the State Board for the fiscal year just ended, that describes actual accomplishments and expenditures of the System program, compares them with the planned accomplishments and expenditures for the fiscal year reported and includes other appropriate commentary.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18740-18767, Education Code.

HISTORY

1. New Article 3 (Sections 20135-20145, not consecutive) filed 7-20-78; effective thirtieth day thereafter (Register 78, No. 30).

2. Amendment filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

3. Amendment filed 10-23-81; effective thirtieth day thereafter (Register 81, No. 43).

§ 20136. System Administrative Policy Manual.

Each System participating in programs of the Act must develop by July 1, 1979, a System Administrative Policy Manual which shall include along with any other items the System finds useful, its policies for:

(a) Receiving and accounting for state and federal funds on behalf of the System.

(b) Employment of System personnel.

(c) Interaction with System Advisory Boards.

(d) Executing the System programs approved by the State Board. Policy manuals shall be in conformity with the California Library Services Act. Policy manuals shall be kept current.

§ 20140. System Administration.

(a) Cooperative Library Systems. The System Administrative Council shall consist of the head librarian of each jurisdiction in the system. In case of the head librarian's absence, an official delegate or alternate may

vote in place of the head librarian. It shall have regular meetings, open and accessible to the public and to members of the System Advisory Board as required in the Ralph M. Brown Act (Govt. Code Section 54950–54961). Information about the meetings of the Council shall be disseminated in such a way and in such languages as the Council determines will most effectively inform the public of the Council's activities. The Council shall be represented at each meeting of the System Advisory Board. The Council shall provide for the position of a Council Chair–person, and for rotation of that position among the Council members.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18710(n) and 18740(a), Education Code.

HISTORY

1. Repealer of subsection (b) filed 5–25–82; effective thirtieth day thereafter (Register 82, No. 22).

§ 20145. System Advisory Board.

(a) Purpose. The State Board finds that it is in the best interests of the citizens of California and best fulfills the purposes of the Act that System Advisory Board members participate in the planning and development of CLSA–funded system services, in cooperation with their respective System Administrative Councils. The purpose of the System Advisory Board program shall be to provide a means for effective communication between each Administrative Council and the residents of its system service areas, and to help ensure that library services provided by each system respond appropriately to the needs of its residents.

(b) Establishment. An Advisory Board for each System shall be established. The Advisory Board shall consist of the number of members specified in Education Code Section 18747(b) and 18748, except that no System Advisory Board shall consist of fewer than five members.

(c) Advisory Board Members. Each System shall provide the California Library Services Board annually, no later than June 1, with a list of the members of the System Advisory Board and an indication of the undeserved population segments represented. Categories used in the Population Profile portion of the System Plan of Service shall be used to indicate the population segments represented.

(d) Organization. Each Advisory Board may formalize its organization by adopting by–laws. Such by–laws shall be in conformity with the Act, these regulations, and Robert's Rules of Order, Newly Revised.

(e) Advisory Board Meetings. The Advisory Board shall have regular meetings, open and accessible to the public. Information about the meetings shall be disseminated in such a way and in such languages as the Advisory Board determines will most effectively inform the public of the Board's activities. It shall be the responsibility of each Advisory Board Member to inform his or her appointing governing body and respective community of these activities. The Advisory Board shall also be represented at meetings of the Administrative Council and shall provide the Administrative Council with regular reports of the Board's activities.

(f) Orientation and Training. It shall be the responsibility of each System Administrative Council to work in conjunction with the State Board and the System Advisory Board to ensure that materials and training are provided as necessary to orient each Advisory Board member to the goals, functions and responsibilities of the State Board, the System Administrative Council, and the System Advisory Board. The Chief Executive Officer may, on behalf of the State Board, provide and/or recommend such materials and training as appropriate.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18750, Education Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).
2. Amendment filed 10–23–81; effective thirtieth day thereafter (Register 81, No. 43).

Article 4. System Reference

§ 20150. Definitions.

For purposes of this Article:

(a) "Discernible difference" means the difference in quality or quantity of service to the user made possible by the support provided under this Article, beyond the service which would have been provided had the member library not had that support.

(b) "Evidence of benefit" means verification (e.g., statistical sample; staff or user personal testimony; case study) of a discernible difference.

(c) "Performance objectives" means the quantified expression of service specifications (e.g., average response time; number of new users satisfactorily served). The quantities may be set at varying levels from year to year, as experience is gained and as available resources vary.

(d) "Service specification" means a qualitative outcome (a goal) which each System shall strive to achieve for one or more of the service components of the System Reference program set forth in Section 20154 of this Article. It describes what is to be examined in determining if a reference service is performing as intended. Service specifications are expected to be relatively constant over a period of several years.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18741, Education Code.

HISTORY

1. Renumbering of former Section 20150 to Section 20151 and new Section 20150 filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33). For history of former section, see Register 78, No. 23.

§ 20151. Local Flexibility.

The intent of this Article is to allow Systems maximum flexibility to decide in what way they will carry out the requirements of the Article. Systems should provide the best possible professional Reference services.

NOTE: Authority cited for Chapter 2 (Sections 20150–20195, not consecutive): Section 18720 et seq., Education Code. Issuing agency: California Library Services Board.

HISTORY

1. Editorial renumbering and correction of Chapter 2, Subchapter 2 (Register 69, No. 51). For prior history, see Registers 66, Nos. 2 and 32; 68, Nos. 23 and 41; 69, No. 25; 71, No. 1.
2. Amendment of NOTE filed 9–23–77; effective thirtieth day thereafter (Register 77, No. 39).
3. Repealer of Chapter 2 (Sections 20100–20401, not consecutive) filed 5–17–78; effective thirtieth day thereafter (Register 78, No. 20).
4. New Chapter 2 (Sections 20150–20195, not consecutive) filed 6–9–78; effective thirtieth day thereafter (Register 78, No. 23).
5. Renumbering of former Section 20151 to Section 20152 and renumbering of former Section 20150 to Section 20151 filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33).

§ 20152. Integrated Service Program.

The intent of this Article is that the elements to improve service to the undeserved should be developed and carried out as much as possible in an integrated manner with all local and System services, so that all elements together provide an inseparable, total library service program.

HISTORY

1. Renumbering of former Section 20151 to Section 20152 filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33).

§ 20153. Principles.

Each System shall adopt a program of coordinated reference service support to the members of the system that conforms to the following principles:

(a) The program makes a discernible difference to the service provided to the user when he or she asks the library for help.

(b) The program incorporates services that are specific to the needs of the undeserved.

(c) The program is designed to provide evidence of benefit that will be understandable to local users, library staffs, and state officials.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18741, Education Code.

HISTORY

1. New section filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33).

§ 20154. Service Components.

Each System shall use its reference allowance to provide the following three service components:

- (a) general improvement of local reference service;
- (b) improvement of reference services to the undeserved; and
- (c) interlibrary reference.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18710(h)(s) and 18741, Education Code.

HISTORY

1. New section filed 6–8–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 20155. General Improvement of Local Reference Service.

(a) Service specifications and performance objectives for the general improvement of local reference service component which are specific to each System shall be adopted by each System. Each System shall, using information provided by its member libraries:

- (1) Assess the needs of, and the service to the general population now being provided by the System's member libraries, then
- (2) Identify those program areas where improvement can make a significant difference in the quality or quantity of service, and determine which of those can be improved by use of available resources, then
- (3) Evaluate which of those remaining areas would offer the greatest improvement in service to the general population, then finally,
- (4) Adopt service specifications and performance objectives to accomplish the improved service, which shall be subject to approval by the Chief Executive Officer on behalf of the State Board.

(b) Evidence of benefit. In designing its general improvement of local reference service component, each System shall provide for evidence of benefit that can be gathered without unreasonably burdening the System and its members.

NOTE: Authority cited: Section 18724 Education Code. Reference: Section 18741, Education Code.

HISTORY

1. New section filed 6–8–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).
2. New subsection (b) filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33).

§ 20156. Improvement of Reference Service to the Undeserved.

(a) Service specifications and performance objectives for the improvement of reference service to the undeserved component which are specific to each System shall be adopted by each System. Each System shall, using information provided by its member libraries:

- (1) Assess the reference needs of, and the reference service to the undeserved now being provided by the System's member libraries, then
- (2) Identify the undeserved population and those reference program areas where improvement can make a significant difference in the quality or quantity of reference service, and determine which reference program areas can be improved by use of available resources, then
- (3) Evaluate which of those remaining areas would offer the greatest improvement in reference service to the undeserved, then finally,
- (4) Adopt service specifications and performance objectives to accomplish the improved reference service, which shall be subject to the approval by the Chief Executive Officer on behalf of the State Board.

(b) Evidence of benefit. In designing its component to improve reference service to the undeserved, each System shall provide for evidence of benefit that can be gathered without unreasonably burdening the System and its members.

(c) Determination of "Fair and Equitable." Each System shall provide an identified amount from within its CLSA Reference allowance for its improvement of reference service to the undeserved component. This budget, when accompanied by approved service specifications and performance objectives as described in Section 20156(a) above, shall be considered as the "fair and equitable" portion of its reference allowance, required by Education Code, Section 18741(b).

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18710(s) and 18741, Education Code.

HISTORY

1. New section filed 6–8–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

2. New subsections (b) and (c) filed 8–9–83; effective thirtieth day thereafter (Register 83, No. 33).

§ 20157. Interlibrary Reference.

(a) Each System shall design its interlibrary reference component to the following service specifications:

- (1) The highest possible percentage of questions shall be answered.
- (2) The answers shall be delivered to the user within an acceptable time period.
- (3) Answers shall meet the user's need in terms of amount, format, language, and accuracy of information.
- (4) Specifications (1)–(3) should be carried out at the lowest possible cost.

(b) The following uniform performance objectives shall be met by all Systems in implementing the interlibrary reference services specifications:

- (1) Answers shall be provided for 90% of all questions referred from member libraries.
- (2) 70% of answers shall be returned to the originating member library within 10 working days of the question having been transmitted by that library into the System's reference referral structure.

(3) For 1 and 2 above the following definitions are established:

"Answer" means a reply to a user's question that provides the user with the information sought; or with knowledge that the information does not exist in verifiable form; or that the information is likely available from one or more indicated sources which can, for a specified reason, be more effectively contacted by the user than by the library system; or any combination of the foregoing. "Answer" does not include a status report.

"Originating member library" means the System member public library as defined in Education Code Section 18710(l).

"Within 10 working days" means a 10-day period which begins when a question is referred to a source other than within the originating member library, by a part of that library authorized to do so by its System's reference referral procedures. The measured period ends when the answer is received by the part of the originating member library designed by its System procedures to receive the answer to the particular question.

"Working days" means Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays, excluding legal holidays.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18710(h), 18726 and 18741, Education Code.

HISTORY

1. New section filed 6–8–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).
2. New subsection (b) filed 10–17–83; effective thirtieth day thereafter (Register 83, No. 43).

§ 20158. Allowance.

Each System shall receive an annual allowance based on the number of member libraries of the System and on the total population served by that System. The State Board shall periodically, and at least annually, review and approve the membership and population figures, and determine an appropriate funding formula which shall be uniform statewide.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18724(d) and 18741(a), Education Code.

HISTORY

1. New section filed 6–8–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 20160. Special Requirements for 1978/79 and 1979/80 Allowance.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18700–18767, Education Code.

HISTORY

1. Repealer filed 1–30–81; effective thirtieth day thereafter (Register 81, No. 5).

§ 20161. Requirements for Allowance for Years Following 1979/80.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18741, 18745–18748, Education Code.

HISTORY

1. Amendment filed 4-13-79; effective thirtieth day thereafter (Register 79, No. 15).
2. Repealer filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20162. Single Library Systems.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18741, Education Code.

HISTORY

1. Repealer filed 5-25-82; effective thirtieth day thereafter (Register 82, No. 22).

Article 5. Consolidations and Affiliations**§ 20180. Public Library Consolidations.**

(a) If any two or more contiguous jurisdictions operating public libraries wish to consolidate their libraries into a single library agency and receive establishment grants under Education Code Section 18732, a joint notice of intent signed by the head librarians of the consolidating jurisdictions must be filed with the State Board no later than September 1 of the fiscal year immediately preceding the effective date for consolidation. Authorizations to consolidate, approved by the governing body of each consolidating jurisdiction, and a joint plan for provision of consolidated services, signed by the head librarians, must be filed with the State Board no later than June 1 of the fiscal year immediately preceding the effective date of the consolidation.

(b) The State Board's approval of requests for library consolidation funds under Education Code Section 18732 shall be based on its determination that the consolidation provides a more effective means of carrying out the purposes of the Act than would be the case if the consolidation did not occur.

(c) For purposes of determining the eligibility of the consolidating jurisdictions to receive funds under other provisions of the Act, a public library consolidation approved by the State Board will be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the consolidation authorizations are filed.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18732, Education Code.

HISTORY

1. Amendment of subsection (a) filed 1-30-81; effective thirtieth day thereafter (Register 81, No. 5).
2. Amendment of subsection (a) and new subsection (c) filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20185. System Consolidations.

(a) If any two or more Systems whose borders are contiguous wish to consolidate and receive a consolidation grant under Education Code Section 18751, a joint notice of intent, approved by the Administrative Councils of the consolidating systems, must be filed with the State Board no later than September 1 of the fiscal year immediately preceding the effective date of consolidation. System participation authorizations approved by the jurisdictional governing body of each of the System's member libraries, and a new system plan of Service and budget, must be filed with the State Board no later than June 1 of the fiscal year immediately preceding the effective date of consolidation. If the State Board approves the consolidation funding request, a grant shall be awarded for each of the two fiscal years following the fiscal year in which the filing is made.

(b) The State Board's approval of requests for System consolidation funds under Education Code Section 18751 shall be based on its determination that the consolidation provides a more effective way of carrying out the purposes of the Act than would be the case if the consolidation did not occur.

(c) For purposes of determining the eligibility of the consolidating systems to receive funds under other provisions of the Act, a system consolidation approved by the State Board will be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the consolidation authorizations are filed.

NOTE: Authority cited: Section 18724, Education Code. Reference: Section 18751, Education Code.

HISTORY

1. Amendment of subsection (a) filed 1-30-81; effective thirtieth day thereafter (Register 81, No. 5).
2. Amendment of subsection (a) and new subsection (c) filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 20190. Public Library Affiliation with an Existing System.

(a) If any jurisdiction, not previously a member of any System, joins a System with borders contiguous to the jurisdiction, and the System wishes to receive an affiliation grant under Education Code Section 18752, the administrative body of the System shall file a notice of intent and the jurisdictional governing body of the affiliating library shall file an affiliation authorization with the State Board as follows:

(3) For memberships occurring between July 1, 1980, and June 30, 1981, the notice of intent shall be filed by September 1, 1980, and the affiliation authorization shall be filed by June 1, 1981. If the State Board approves, a grant of \$3,000 shall be made for each of the fiscal years 1981/82 and 1982/83.

(4) For memberships occurring between July 1, 1981, and June 30, 1982, the notice of intent shall be filed by September 1, 1981, and the affiliation authorization shall be filed by June 1, 1982. If the State Board approves, a grant of \$2,000 shall be made for each of the fiscal years 1982/83 and 1983/84.

(5) For memberships occurring between July 1, 1982, and June 30, 1983, the notice of intent shall be filed by September 1, 1982, and the affiliation authorization shall be filed by June 1, 1983. If the State Board approves, a grant of \$1,000 shall be made for each of the fiscal years 1983/84 and 1984/85.

(6) System memberships occurring following June 30, 1983 shall not be eligible for grants under Education Code Section 18752.

(b) The State Board's approval of requests for affiliation grants under Education Code Section 18752 shall be based on its determination that the proposed membership is at least as effective a way of carrying out the purposes of the Act as would be the case if the membership were with a System other than the one joined.

(c) For purposes of determining the eligibility of the affiliating public library or system to receive funds under other provisions of the Act, an affiliation will be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the affiliation authorization is filed.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18700-18767, Education Code.

HISTORY

1. Amendment and new subsection (c) filed 12-5-80; effective thirtieth day thereafter (Register 80, No. 49).

§ 20192. Public Library Withdrawal from System Membership.

(a) If a member library does not retain its membership in any System participating in the programs of the Act, the System shall notify the State Board no later than three months preceding the beginning of the fiscal year in which the withdrawal takes effect.

(b) Any System failing to provide the notice required in Section 20192(a) may be required to return to the State Board any funds allocated to it on the basis of the withdrawing library's membership, if the Chief Executive Officer determines that such funds would not have been allocated had the required notice been provided.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18724(b) and 18726(c), Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

§ 20195. Public Library Change of System Membership.

If any jurisdiction at present or previously a member of a System which has received state funds pursuant to that jurisdiction's membership, wishes to join another System instead, and if the library and the System it proposes to join wish to receive state funds pursuant to that jurisdiction's membership under Article 5 of the Act, the governing body of the

jurisdiction and the administrative body of the System it proposes to join shall file a joint notice of intent with the State Board. The notice shall be filed by September 1 of the year preceding any July 1 of the first full fiscal year for which state funds pursuant to the new membership are requested. The State Board shall approve all appropriate state fund payments to the System under Article 5 of the Act only if it determines that the new membership results in a more effective statewide method of carrying out the purposes of the Act than would be the case if the jurisdiction retained or resumed the System membership it had previously. If the State Board does not make such a determination in favor of the new membership, then the new System's funding under Article 5 of the Act shall be calculated on the basis of the System comprising only those public library jurisdictions whose membership is approved.

Article 6. Direct Loans

§ 20200. Scope.

Except where otherwise specified, the regulations contained in the Article apply both to Education Code Section 18731 (Universal Borrowing) and Education Code Section 18743 (Equal Access) of the Act.

NOTE: Authority and reference cited for Article 6 (Sections 20200–20217, not consecutive): Chapter 4 (Section 18700, et seq.) of Part 11, Education Code. Issuing agency: California Library Services Board.

HISTORY

1. New Article 6 (Sections 20200–20217, not consecutive) filed 7–20–78; effective thirtieth day thereafter (Register 78, No. 30).

§ 20203. Residency.

For purposes of this Article, each resident of the State shall be deemed to have a single legal residency, which shall entitle him/her to resident library services of the jurisdiction in which he/she resides, and such services shall not be reimbursable under this Article. In determining the places of residency, the following rules as excepted from Government Code section 244 shall be observed:

- (a) It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- (b) There can be only one residence.
- (c) A residence cannot be lost until another is gained.
- (d) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of such unmarried minor child.
- (e) A married person shall have the right to retain his or her legal residence in the State notwithstanding the legal residence or domicile of his or her spouse.

§ 20204. Loans to Eligible Non-Resident Borrowers.

- (a) Public libraries participating in direct loan programs under this Act, shall not charge any fee to non-residents for borrowing privileges.
- (b) Reserves and interlibrary loan requests shall be accepted by the participating public library under the same rules and policies applied to local residents.
- (c) All procedures governing registration of borrowers shall apply equally to residents and non-residents.
- (d) All materials normally loaned by a participating public library are available for loan to non-residents under the same rules and policies applied to local residents.
- (e) All loan and return rules governing circulation apply equally to residents and non-residents. If overdue materials are returned to a library other than the library from which borrowed, fines may be paid to and retained by the library to which the return is made. Payments for lost or damaged material are payable to the lending library, and are to be forwarded by the library to which payment is made.
- (f) Special loan privileges extended by the participating public library to teachers and other groups within its jurisdiction need not be extended beyond the jurisdiction.

§ 20205. Non-Resident Borrower Eligibility.

- An eligible non-resident borrower must be a resident of California,
 - (a) Hold a valid borrowers card issued by his/her home library, or (b) Hold or obtain a valid non-resident borrowers card issued by any California public library, or
 - (c) Hold a valid state borrowers identification card issued by any California public library;
 - (d) And present any additional identification normally required by a library of its own residents.
 - (e) Nothing in this section shall prevent the issuing of a non-resident card or charging of fees to a resident of another state, except that loans to such non-residents shall not be counted as reimbursable transactions.

§ 20206. Valid Identification.

The lending library must be supplied with the name and current address of the borrower and the name of the library jurisdiction in which the borrower maintains his or her legal residency.

§ 20210. Exchange of Local Funds Prohibited.

Libraries participating in direct loan programs authorized by the Act, shall not charge other jurisdictions for borrowing privileges extended to their residents, except that contracts for loan or other services provided within a defined geographic area by a library jurisdiction to residents of another jurisdiction not served by their library jurisdiction are not prohibited. Persons served under such contracts are to be registered as residents of the jurisdiction providing the contract service.

§ 20211. Maintenance of Local Service Standards.

- It is the intent of this Article that local service standards be maintained:
 - (a) Extension of borrowing privileges by libraries to non-residents, should not adversely affect the level of service provided by the home library to its own residents.
 - (b) No library jurisdiction may reduce or fail to maintain or improve the level of service to its residents for the purpose of placing undue reliance on the library services of neighboring library jurisdictions.

§ 20215. Reimbursement for Net Direct Loans.

Loan of a library material of any type by a participating public library to an eligible nonresident borrower shall result in reimbursement from the state under Education Code Sections 18731 and 18743 to the extent that the number of such loans exceeds the number of items borrowed by that library jurisdiction's residents from other participating public libraries, during a specific reporting period.

§ 20216. Reporting Requirements.

To obtain reimbursement, participating public libraries shall provide reports in the form and manner, and for the period required. Reports must be submitted by established deadlines. Records in support of claims for state funds must be maintained for four years.

§ 20217. Reimbursable Costs.

Reimbursable costs, expressed on a unit basis, are those handling costs incurred by the lending library in processing a direct loan to a non-resident. The State Board shall periodically review, at least once a year, and approve such cost data, but the reimbursement rate, as adopted, shall be uniform statewide.

Article 7. Communication and Delivery

§ 20235. Definition of Reporting Terms.

In complying with the reporting requirements of Section 20135 each system shall report the following items using the following definitions with respect to the communication and delivery programs:

- (a) "Message" means the transmission of a discrete body of information from one library to another by means of a telecommunications system to a single individual or institutional addressee. Many separate items of information may be contained in a single message. The same body of information transmitted to several addressees at physically distinct loca-

tions constitutes several, not one, messages. Written information physically conveyed by delivery van, U.S. Mail, or other courier services is not considered a "message" for communications and delivery reporting purposes.

(b) "Item delivered" means the physical removal of a discrete item from one library to another by means of a delivery van, U.S. Mail, courier service, or other delivery system. Reasonable judgement shall be exercised in determining particular "items" status (e.g., a carton containing 10,000 brochures is one—not 10,000 items).

(c) "Frequency/schedule of delivery service" means that specific (daily, twice weekly, weekly, etc.) frequency of delivery service received by member libraries. If not all members receive the same frequency of delivery service the number of member libraries served on each differing schedule must be reported.

(d) "Other" means that when a system employs communications or delivery methods other than those specifically cited on the standard reporting forms, the system must specify the method(s) employed and separately account for the message or delivery volume for each such method.

NOTE: Authority cited: Section 18724, Education Code. Reference: Sections 18724(e) and 18745, Education Code.

HISTORY

1. Renumbering of former Article 7 (Sections 20251–20265, not consecutive) to Article 8 (Sections 20251–20265, not consecutive) and new Article 7 (Section 20235) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24). For prior history, see Register 78, No. 30.

Article 8. Interlibrary Loans

§ 20251. Scope.

The regulations in this article refer to interlibrary loan activity covered under the provisions of Education Code section 18744 (i.e. System interlibrary loan) and 18765 (i.e. Statewide loan).

NOTE: Authority and reference cited for Article 7 (Sections 20251–20265, not consecutive): Chapter 4 (Section 18700, et seq.) of Part 11, Education Code. Issuing agency: California Library Services Board.

HISTORY

1. Renumbering of former Article 7 (Sections 20251–20265, not consecutive) to Article 8 (Sections 20251–20265, not consecutive) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24). For prior history, see Register 78, No. 30.

§ 20252. Intent.

It is the intent of this program of the Act to support the sharing of library resources through interlibrary loan. Library materials needed by a library user and not available in that user's library will be made available to the user via interlibrary loan.

§ 20255. Eligibility.

(a) Public Libraries. Any public library as defined in Education Code section 18710(l), which has been authorized by its jurisdiction to participate in programs of the Act must participate in the interlibrary loan programs of the Act.

(b) Libraries Other Than Public Libraries. To be eligible to participate these libraries must be authorized by their own administrative authorities to do so and must file the proper notice with the State Board as outlined in section 20105(c). Further, a library, other than a public library, may be eligible for a reimbursement only for a loan to an eligible public library. Libraries, other than public libraries, which can become eligible for participation in the interlibrary loan reimbursement programs of the Act include only the following:

(1) Libraries operated by public schools or school districts. These libraries include only those defined in Education Code section 18710(m).

(2) Libraries operated by public colleges or universities. These include those academic libraries (Education Code section 18710(a)) which are funded primarily with public funds. Academic libraries potentially eligible for these programs include the libraries of the University of California, of the State University and College System, and of the California Community Colleges.

(3) Libraries operated by public agencies for institutionalized persons. Libraries for the institutionalized include hospital, correctional, and residential treatment facility libraries which are funded primarily with public funds (i.e. local, state, or federal tax monies).

(4) Libraries operated by nonprofit private educational or research institutions. These libraries include those operated by private colleges and universities which maintain nonprofit status under provisions of the federal Internal Revenue Service or the California Franchise Tax laws. These libraries also include those operated by private companies which are primarily devoted to educational or research purposes and which maintain nonprofit status under provisions of the federal Internal Revenue Service or the California Franchise Tax laws. Such libraries may be required by the State Board to furnish proof of their nonprofit status in addition to any other required notices and forms.

§ 20257. Reimbursable Transaction.

An interlibrary transaction can result in reimbursement under Education Code sections 18744 and 18765 if it consists of the loan of a library material of any type which is collected by a library or if it consists of the provision of a copy in lieu of loan of a library material, from any eligible, participating lending library to any eligible public library as defined in section 20255 and in Education Code sections 18744 and 18765.

§ 20260. Reimbursable Costs.

Reimbursable costs are only those handling costs which a lending library incurs in filling a successfully completed interlibrary loan transaction. The State Board shall periodically, and at least annually, review and approve the cost data and determine an appropriate funding formula which shall be uniform statewide.

§ 20265. Participation Requirements.

Participating libraries, both public and nonpublic, shall conform to the following requirements:

(a) Reporting. To obtain reimbursement a library shall provide by the deadline reporting date, all required reports of its interlibrary loan transactions in an established form and manner determined by the Board for the period required.

(b) Audit. For audit purposes, a record of the interlibrary loan transactions must be maintained for four years.

(c) Fees. A library providing an item for interlibrary loan may not collect a handling fee on a transaction for which that library claims an interlibrary loan reimbursement under provisions of this article. A photocopy fee, exclusive of photocopy handling charge, may be collected.

(d) Direct Loan Availability. Participating libraries shall make maximum use of available bibliographic access tools to refer users to borrow directly from nearby libraries where requested material is easily available, rather than to process an interlibrary loan.

(e) Responsibility for Borrowed Materials. The borrowing library shall be responsible for all items it borrows, and if such item is lost or damaged by the library or its users, the borrowing library may be required by the lending library to make restitution for the item.

(f) Adherence to Standards. All participating libraries shall attempt to follow the standards described in the "California Library Services Act Interlibrary Loan Standards," which is hereby incorporated by reference. The State Board may withhold reimbursements to libraries which continually fail to meet the standards of performance.

Subchapter 2. Library of California

Article 1. General Provisions

§ 20300. Scope.

The regulations contained in this chapter shall implement the Library of California Act, Chapter 4.5 of Part 11 of Division 1 of Title 1 of the Education Code, beginning with Section 18800 thereof.

NOTE: Authority cited: Section 18821, Education Code. Reference: Chapter 948, Statutes of 1998; Chapter 4.5, Section 18800, Education Code.

HISTORY

1. New subchapter 2 (articles 1–7, sections 20300–20332), article 1 (sections 20300–20301) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20301. Funding Provisions.

(a) Funding distributed according to Library of California Act provisions shall be used to support library purposes.

(b) Institutions and public library jurisdictions receiving reimbursement under the provisions of Education Code Section 18844(a–e) may not collect fees for those same services or those portions thereof for which they have received reimbursement.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18801(b)(1), 18802(d), 18802(i) and 18830(c), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

Article 2. Definitions**§ 20302. Definitions.**

(a) These additional definitions concerning Library of California Act components complement those set forth in Education Code Section 18810.

(b) Additions to the definitions are as follows.

(1) “California Literacy Campaign” means the program authorized and funded under the California Library Literacy Service Act, Education Code Section 18733.

(2) “Chief Executive Officer” means the State Librarian.

(3) “Families for Literacy” means the program authorized and funded under the California Library Literacy Service Act, Education Code Section 18735.

(4) “Fiscal year” means the State fiscal year unless otherwise specified.

(5) “President” means the elected president of the state board.

(6) “Regional library network affiliation” means that a public library jurisdiction or an institution formally and legally joins a regional library network to obtain full membership status.

(7) “Regional library network consolidation” means the formal and legal joining of the geographic service areas, functions, services, and operations of two or more formerly separate regional library networks into a single regional library network, as defined in Education Code Sections 18840–18842.

(8) “Regional library network division” means the separation of the geographic service areas, functions, services, operations, and membership of a single regional library network into two or more regional library networks, as defined in Education Code Sections 18840–18842.

(9) “Regional library network realignment” means a change in boundaries of two or more regional library networks.

(10) “Regional network council” means regional library council, as defined in Education Code Section 18810(r).

(11) “Statewide electronic library card” means the mechanism by which a library user is authorized to obtain the services provided under Education Code Section 18844(d), the Electronic Direct Access program. These services allow the user to browse the bibliographic catalogs of libraries statewide on a computer, identify and request library resources through a computer, and/or receive the information resources by means of a computer. The statewide electronic library card may be a physical card or an electronically authenticated equivalent or other appropriate vehicle.

(12) “Vice-President” means the elected vice-president of the state board.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18810, Education Code.

HISTORY

1. New article 2 (section 20302) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

Article 3. Library of California Board**§ 20303. Powers and Duties of the State Board.**

Pursuant to its authority to establish regional library networks, the state board may approve:

(a) regional library network affiliations and withdrawals; and

(b) regional library network consolidations, realignments, and divisions.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e), 18830(a) and 18840, Education Code.

HISTORY

1. New article 3 (sections 20303–20310) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20304. Officers of the State Board.

The state board shall elect a president and a vice-president from its members. The term of each office shall be one year.

(a) The state board shall elect annually a president and vice-president at the last regular meeting of each calendar year.

(b) Should a vacancy occur in the office of president or vice-president, the state board shall elect one of its members to fill such vacancy for the remainder of the term. The state board shall take this action at its next regular meeting following the occurrence of the vacancy.

(c) Duties of the President. The president shall preside at all meetings of the state board, shall appoint committees and advisory bodies as authorized by the state board and as necessary to carry out its work, shall execute for the state board any documents requiring such execution, and shall perform such other duties as the state board determines.

(d) Duties of the Vice-President. The vice-president shall, in the absence of the president, perform the duties of the president.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20305. Quorum.

A quorum for all state board meetings shall be seven of the thirteen members.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20306. Meetings of the State Board.

(a) Frequency. Regular meetings of the state board shall be held at least four times each year, distributed over the course of the year.

(b) Schedule. The tentative dates and locations for the regular meetings for the forthcoming calendar year shall be determined annually, at the last regular meeting of the calendar year.

(c) Changes in Schedule. Nothing in this regulation shall be construed to prevent the state board from altering its regular meeting dates or altering the locations of meetings.

(d) Meeting Notice. Any person or organization desiring to receive notice(s) of state board meetings may direct the request to: Library of California Board, California State Library, P. O. Box 942837, Sacramento, California 94237–0001.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20307. Speakers.

(a) Recognition of Speakers. Members of the public or the State Library staff may be recognized by the president to speak at any state board meeting. All remarks made shall be germane to the business at hand and shall be addressed to the president.

(b) Subject of Remarks. All speakers before the state board shall confine their remarks to the subject indicated in the recognition of the president.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20308. Robert's Rules of Order.

Except where the provisions of the Library of California Act or of these regulations provide to the contrary, or when the state board determines otherwise, the state board shall operate under the provisions of Robert's Rules of Order. The state board shall adopt an edition of Robert's Rules of Order as the edition for use by the state board.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20309. Public Hearings.

The state board may hold a public hearing regarding any matter pending before it.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18820, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20310. Public Records.

Inspection of the original copy of any public record of the state board, as defined in Government Code Section 6252(d) and 6254, shall be permitted during the regular office hours of the California State Library, Library and Courts I Building, 914 Capitol Mall, Sacramento, California 95814.

NOTE: Authority cited: Section 18821, Education Code; and Section 6253.4, Government Code. Reference: Section 18820, Education Code; and Section 6253(a), Government Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

Article 4. Eligible Libraries

§ 20311. Continuation of Membership.

(a) Each institution or public library jurisdiction shall continue as a member of a regional library network as long as:

(1) at least one of its participating libraries meets the eligibility standards required by Education Code Section 18830(a) and complies with the agreements required by Education Code Section 18830(b);

(2) the local governing agencies and appropriate administrative authorities do not reduce funding for library services as a result of membership in the regional library network and participation in the programs and services delivered under this Act; and

(3) the institution or public library jurisdiction and its participating libraries comply with the resource sharing standards specified in Section 20312 of this subchapter.

(b) Each regional library network shall assure the compliance of its members with these provisions through its membership policies and procedures.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18830 and 18840(c), Education Code.

HISTORY

1. New article 4 (sections 20311-20315) and section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20312. Resource Sharing Standards.

(a) Each participating library shall participate in one or more of the four access services components in Education Code Section 18844(a-d).

(b) Each member of a regional library network shall provide access to the library's bibliographic records and location information for those resources it has agreed to share with other libraries, to support the purposes of Education Code Sections 18842(d) and 18851(a-b). The access shall be provided in such form, manner, and frequency as established through subsequent rulemaking conducted under the provisions of the Adminis-

trative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18830(b), 18842(d), 18844 and 18851(a-b), Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20313. Affiliation with a Regional Library Network.

(a) If any institution or public library jurisdiction joins the regional library network serving its geographic area under the provisions of Education Code Section 18830, its affiliation shall be certified by the state board.

(b) Should an institution or public library jurisdiction wish to join a regional library network other than the one serving its geographic area, it may request an exception to the geographic boundary requirement from the state board. An exception may also be requested to enable all participating libraries of a single institution or public library jurisdiction to be served by a single regional library network. The state board's approval for exceptions shall be based on its determination that:

(1) the proposed membership is at least as effective a way of carrying out the purposes of the Act as would be the case if the membership were with the regional library network serving the geographic area; and

(2) the proposed membership does not result in an inefficient expenditure of state funds or redundancy of service.

(c) If the participating libraries of an institution or a public library jurisdiction are located in geographic areas served by different regional library networks, the institution or public library jurisdiction may become a member of each regional library network serving one or more of its participating libraries. However, each participating library shall receive state-supported services from a single regional library network and only that regional library network shall file a certification of library participation with the state board under the provisions of Section 20313(f) of this subchapter for the participating library.

(d) The administrative body of the regional library network shall file a notice of agreement and the institutional governing body or the public library jurisdictional governing body shall file an affiliation request with the state board by April 1 of the fiscal year prior to the fiscal year when such status is sought.

(1) The notice of agreement shall certify that the regional library network approves the membership application of the institution or public library jurisdiction.

(2) The affiliation request shall certify that the governing body or appropriate administrative authority for the institution or jurisdiction wishes to join the regional library network and agrees to comply with the provisions of this Act.

(e) For purposes of determining the eligibility of the affiliating institution or public library jurisdiction to receive services and funds under the provisions of this Act, an affiliation shall be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the affiliation is certified by the state board. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

(f) Participating Libraries.

(1) If a library within a member institution or member public library jurisdiction elects to become a participating library and it meets the eligibility criteria for a participating library as set forth in Education Code Section 18830(a-b), and its participation is approved by the regional library network, the administrative body of the regional library network shall file a certification of library participation with the state board by April 1 of the fiscal year prior to the fiscal year when such status is sought.

(2) For purposes of determining the eligibility of the participating library to receive services and funds under the provisions of this Act, the status of the library as a participating library shall be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the certification of library participation is filed with the state board. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e), 18830, 18831(a) and 18840, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20314. Withdrawal from a Regional Library Network.

(a) If a member institution or public library jurisdiction does not retain its membership in a regional library network, the regional library network shall notify the state board within thirty days following the official action of the member and/or the regional library network.

(b) If a participating library does not retain its status as a participating library in a regional library network, the regional library network shall notify the state board within thirty days following the official action of the member on behalf of its participating library and/or the regional library network.

(c) For the purposes of determining the eligibility of an institution or a public library jurisdiction or a participating library to receive services and funds under the provisions of this chapter, a withdrawal shall be considered effective upon filing the notification with the state board.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e), 18830 and 18840, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20315. Membership Eligibility Appeals.

(a) If an institution or a public library jurisdiction considers the membership eligibility policies and/or membership eligibility actions of the regional library network serving its geographic area to be inconsistent with the purposes and provisions of this Act, it may file an appeal with the state board.

(b) An appeal shall include references to the relevant purposes and/or provisions of the Act; information on the membership eligibility policies and/or membership eligibility actions of the regional library network which appear inconsistent with the Act; and any available documentation.

(c) The state board shall notify the regional library network of the appeal and shall invite the regional library network to respond to the appeal, which response is due within sixty days of the state board's notice.

(d) The state board shall take action on the appeal within one hundred and fifty days of the institution's or public library jurisdiction's initial filing.

(e) The state board's determination shall be based upon:

(1) the accuracy of the data presented in the appeal;

(2) the impact of the regional library network's membership eligibility actions and/or membership eligibility policies on resource sharing in the geographic region and the state;

(3) the consistency of the regional library network's membership eligibility actions and/or membership eligibility policies with the purposes and provisions of the Act; and

(4) the exclusion or inclusion of libraries by type, size, or other factors inconsistent with the purposes of this Act as a result of the regional library network's membership eligibility actions and/or membership eligibility policies.

(f) The decisions of the state board shall become effective thirty days from its official action on the appeal.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18821(h), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

Article 5. Regional Library Networks

§ 20316. Establishment of Regional Library Networks.

(a) The state board shall use the following criteria to approve the boundaries of the regional library networks, considering both cost-effectiveness and relationship to the resource sharing purposes of this chapter: public library jurisdictional boundaries; commonality with boundaries of educational institutions; recognition of current transportation, market-

ing, and communication patterns; location of and access to library resources; adequacy of resources for resource sharing purposes; population; and geographical contiguity.

(b) Every geographic area of the state shall be served by a regional library network.

(c) Upon receipt of a plan for a regional library network as set forth in Education Code Section 18840, the state board shall review the plan for completeness and for compliance with the purposes and provisions of the Act.

(d) The state board shall conclude its plan review within one hundred and twenty days from the submission of a plan and approve it or disapprove it. If a regional library network's plan is disapproved, the state board shall note the reason(s) for its disapproval and may make recommendations as to modifications which would make the plan approvable. A modified plan may be re-submitted for state board consideration.

(e) Upon state board approval, a regional library network shall be established for the purposes of this Act and its organization and members shall be recognized as eligible to receive services and funds under the provisions of this Act. The establishment and recognition of the regional library network shall be considered effective on the first July 1 following state board approval. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18821(e), Education Code.

HISTORY

1. New article 5 (sections 20316–20321) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20317. Consolidation of Regional Library Networks.

(a) If any two or more regional library networks whose borders are contiguous wish to consolidate, a joint notice of intent, approved by the regional network councils of the consolidating regional library networks, shall be filed with the state board no later than September 1 of the fiscal year immediately preceding the July 1 effective date of the consolidation. Regional library network affiliation authorizations approved by the institutional or public library jurisdictional governing body of each member of the new consolidated regional library network, and a new regional library network plan as specified in Education Code Section 18840, shall be filed with the state board no later than January 15 of the fiscal year immediately preceding the July 1 effective date of the consolidation.

(b) The state board's approval of requests for regional library network consolidations shall be based on the criteria for the establishment of regional library networks specified in Section 20316 of this subchapter and upon the state board's determination that the consolidation provides at least as effective a way of carrying out the purposes of the Act as would be the case if the consolidation did not occur.

(c) For purposes of determining the eligibility of the regional library networks and their members to receive services and funds under other provisions of the Act, a consolidation approved by the state board shall be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the consolidation authorizations are filed. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e) and 18840, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20318. Realignment of Regional Library Networks.

(a) If any two or more regional library networks whose borders are contiguous wish to realign their boundaries, a joint notice of intent, approved by the regional network councils of the realigning regional library networks, shall be filed with the state board no later than September 1 of the fiscal year immediately preceding the effective date of the realignment. Regional library network affiliation requests approved by the institutional or public library jurisdictional governing body of each member of the new regional library networks, and revised or new regional library network plans as specified in Education Code Section 18840, shall be

filed with the state board no later than January 15 of the fiscal year immediately preceding the effective date of the realignment.

(b) The state board's approval of requests for regional library network realignments shall be based on the criteria for the establishment of regional library networks specified in Section 20316 of this subchapter and upon the state board's determination that the realignment provides at least as effective a way of carrying out the purposes of the Act as would be the case if the realignment did not occur.

(c) For purposes of determining the eligibility of the regional library networks and their members to receive services and funds under other provisions of the Act, a realignment approved by the state board shall be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the realignment authorizations are filed. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e) and 18840, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20319. Division of Regional Library Networks.

(a) If a regional library network wishes to divide into two or more regional library networks, a notice of intent approved by its regional network council shall be filed with the state board no later than September 1 of the fiscal year immediately preceding the July 1 effective date of the division. Regional library network affiliation authorizations approved by the institutional or public library jurisdictional governing body of each member of the new regional library networks, and a new regional library network plan as specified in Education Code 18840 for each regional library network resulting from the division, shall be filed with the state board no later than January 15 of the fiscal year immediately preceding the July 1 effective date of the division.

(b) The state board's approval of requests for regional library network divisions shall be based on the criteria for the establishment of regional library networks specified in Section 20316 of this subchapter and upon the state board's determination that the division provides at least as effective a way of carrying out the purposes of the Act as would be the case if the division did not occur.

(c) For purposes of determining the eligibility of the regional library networks and their members to receive services and funds under other provisions of the Act, a division approved by the state board shall be considered effective beginning July 1 of the fiscal year immediately following the fiscal year in which the division request is filed. The state board may approve an earlier effective date if it determines that such action would best serve the purposes of the Act.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18821(e) and 18840, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20320. Regional Library Network Long-Range Plan and Annual Plan of Service.

To continue to qualify for funding under the Library of California Act, each regional library network shall submit a long-range plan and an annual plan of service to the state board for its approval.

(a) The long-range plan shall set forth the goals and objectives for the regional library network over a three year period, relative to the purposes of this Act and the needs of people within the region.

(b) The annual plan of service shall provide for:

(1) services to advance the regional library network's long-range goals and objectives; and

(2) a budget proposed for the next fiscal year.

(c) Following approval by the regional network council, the long-range plan and annual plan of service shall be submitted annually to the state board by April 1 of the fiscal year immediately preceding the fiscal year for which funds are requested.

(d) The state board shall review the long-range plan and the annual plan of service for compliance with the purposes and provisions of the Act.

(e) The state board shall conclude its review within sixty days from the submission of the plans and approve or disapprove them. If a regional library network's plans are disapproved, the state board shall note the reason(s) for their disapproval and may make recommendations as to modifications which would make the plans approvable. Modified plans may be re-submitted for state board consideration.

(f) Any revision of the annual plan of service, including its budget, shall be submitted to the chief executive officer at least thirty days prior to the effective date of the proposed changes.

(g) In addition, each regional library network shall file by October 1 of each year a report for the fiscal year just ended, that describes the actual accomplishments and expenditures of the regional library network program, compares them with the planned accomplishments and expenditures for the fiscal year reported, and includes other appropriate commentary.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18840(d) and 18841(a), Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

§ 20321. Administration of Regional Library Networks.

(a) The regional library network shall provide for the position of a chairperson.

(b) The regional network council and its representative board shall have regular meetings, which shall be open and accessible to the public as required in the Open Meetings Act (Government Code Sections 54950-54961).

(c) The regional network council and its representative board may establish such subgroups, committees, and advisory bodies as necessary to assure the effective and efficient operation of the regional library network.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18840(a), 18840(b) and 18841, Education Code.

HISTORY

1. New section filed 5-8-2000; operative 6-7-2000 (Register 2000, No. 19).

Article 6. Access Services

§ 20322. Interlibrary Loan.

This program of the Act supports the sharing of library materials through interlibrary loan. Library resources needed by a library user and not available in the user's library may be made available to the user via interlibrary loan.

(a) Members of regional library networks are eligible to obtain interlibrary loans and to receive reimbursement for interlibrary loans under the provisions of this chapter. A library shall agree both to extend interlibrary loan services and initiate interlibrary loan requests for its primary clientele in order to participate in this program.

(b) An interlibrary loan shall result in reimbursement under Education Code Section 18844(a) if it consists of the loan of a library material in any format or if it consists of the provision of a copy in lieu of loan of a library material from one member of a regional library network to another member of any regional library network statewide.

(c) Interlibrary loan protocols shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(d) Reimbursable costs are those handling costs and delivery costs which a lending library incurs in filling a successfully completed interlibrary loan request.

(e) The reimbursement formula and procedures shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(f) To obtain reimbursement, a regional library network member shall provide to the state board an invoice detailing its interlibrary loan transactions for the appropriate period. For audit purposes, a record of these invoices must be maintained for four years.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18844(a), Education Code.

HISTORY

1. New article 6 (sections 20322–20326) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20323. Patron Referral and Onsite Services.

This program of the Act enables library users from one institution or public library jurisdiction to use library services and resources in another institution or public library jurisdiction which would otherwise be inaccessible to them.

(a) Members of regional library networks are eligible to refer patrons under this program. Members of regional library networks are eligible to receive reimbursement for onsite services delivered under the provisions of this Act.

(1) The provision of onsite services to a referred library patron shall result in reimbursement under Education Code Section 18844(b) if the services are delivered and if the referral originated from another member of the regional library network in accordance with protocols developed by the regional library network.

(2) The provision of onsite services to a referred library patron shall result in reimbursement under Education Code Section 18844(b) if the services are delivered and if the referral originated from a member of any regional library network statewide. Protocols shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(b) Information agencies with uncommon and exceptional onsite services and resources, which would otherwise be inaccessible to the public, may receive designation as an eligible recipient of reimbursement funds under Education Code Section 18844(b).

(1) The information agency may apply to a regional library network to provide services to its members provided that:

(A) it is one of the few if not the only source of the onsite service in the region; and

(B) it agrees to comply with the purposes and provisions of this Act.

(2) The information agency may apply to the state board to provide services to members of all regional library networks statewide provided that:

(A) it is one of the few if not the only source of the onsite service in the state; and

(B) it agrees to comply with the purposes and provisions of this Act.

(c) Reimbursable onsite services are those identified by the state board.

(d) Reimbursable costs are those identified by the state board.

(e) To obtain reimbursement, an institution or a public library jurisdiction or an information agency shall provide to the state board an invoice detailing its provision of onsite services to referred library patrons for the appropriate period. For audit purposes, a record of these invoices shall be retained for four years.

(f) Reimbursable services, costs, and procedures shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18844(b), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20324. Direct Loan.

This program of the Act enables library users to receive direct borrowing privileges at libraries for which these people do not constitute the primary clientele.

(a) Members of a regional library network are eligible to receive reimbursement for extending direct borrowing privileges to people who are not part of their primary clientele, but who are part of the primary clientele of other members of its regional library network. Services shall be provided in accordance with the protocols of the regional library network.

(b) Members of a regional library network are eligible to receive reimbursement for extending direct borrowing privileges to people who are not part of their primary clientele, but who are part of the primary clientele of other members of any regional library network statewide. Protocols shall be established through subsequent rulemaking under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(c) A library participating in a direct loan program under this Act shall apply the same rules, policies, procedures, and fees related to borrowing privileges to eligible borrowers from other institutions or public library jurisdictions as are applied to individual members of its own primary clientele. Where there are different categories of primary clientele with different service levels, the library shall identify the service level applicable to eligible borrowers from other institutions or public library jurisdictions.

(d) Libraries participating in this program shall ascertain whether or not each person requesting direct borrowing privileges is a member of its primary clientele. If the person is a member of the library's primary clientele, such services shall not be reimbursable under this Act.

(e) An eligible borrower shall hold a valid borrowers card (or equivalent) issued by a member of a regional library network in recognition of his or her status as part of the primary clientele of that institution or public library jurisdiction.

(1) Any additional identification generally required by a library of its own primary clientele may also be required.

(2) The lending library may also require the name and current address of the borrower and the name and current address of the institution or public library jurisdiction through which the borrower is eligible for service.

(f) Contracts for loan and other services provided by an institution or a public library jurisdiction to the primary clientele of another institution or public library jurisdiction are not prohibited. Persons served under such contracts shall be registered as part of the primary clientele of the institution or public library jurisdiction providing the contract service. No reimbursement for services provided under the terms of such contracts shall be provided under this Act.

(g) Loan of a library material of any type by an institution or public library jurisdiction to an eligible borrower shall result in reimbursement from the state under Education Code Section 18844(c). Reimbursements shall be equitable in that:

(1) each loan to an eligible borrower from a type of library different from the lending library shall be reimbursed; and

(2) each loan to an eligible borrower from the same type of library as the lending library shall be reimbursed on a net imbalance basis, to the extent that the number of items loaned to its non-primary clientele exceeds the number of items borrowed by its primary clientele from other libraries of the same type.

(h) To obtain reimbursement, an institution or public library jurisdiction shall provide to the state board an invoice detailing its provision of direct loan services for the appropriate period. For audit purposes, a record of these invoices shall be retained for four years.

(i) Reimbursable costs are those handling costs incurred by the lending library in processing a direct loan under the provisions of this Act.

(j) The reimbursement formula and procedures shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18844(c), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20325. Additional Direct Loan Provisions for Public Library Jurisdictions.

Each public library jurisdiction that is a member of a regional library network shall provide direct borrowing privileges to all residents of the geographic area served by the regional library network in accordance with Education Code Section 18842(c) and shall provide such service under the provisions of Section 20324 of this subchapter.

(a) In addition to the reimbursable services identified in Section 20324 (a–b) of this subchapter, each public library jurisdiction is eligible to receive reimbursement for extending direct borrowing privileges to Californians who are not residents of its geographic jurisdiction and who are not part of the primary clientele of other members of any regional library network.

(b) For the purposes of this Act, each resident of the state shall be deemed to have a single legal residency, which shall entitle him or her to resident library services of the public library jurisdiction in which he or she resides, and such services shall not be reimbursable under this Act. In determining the places of residency, the provisions of Government Code Section 244 shall apply.

(c) Extension of borrowing privileges by public library jurisdictions to residents of the geographic area served by the regional library network shall not adversely affect the level of service provided by that library to its own primary clientele.

(1) If existing public library service programs, funded at the local level, are diminished as a result of this resource sharing program, the public library jurisdiction may request a waiver of its participation in the direct loan program or a waiver of one or more of the provisions of Section 20324 (c) of this subchapter.

(2) The regional library network shall submit the original waiver request and the subsequent recommendation of the regional library network to the state board for its consideration within ninety days from receipt of the original request.

(3) The state board shall approve or disapprove the waiver request within one hundred and twenty days of the waiver filing with the state board by the regional library network. If approved, the provisions of the waiver shall be effective thirty days from the date of the state board's action and shall be effective for the time period specified by the state board in its approval.

(4) Criteria considered by the state board in making its determination on the waiver request shall include: impact of the direct loan program on local library service; equity of benefits to the primary clientele of the requesting library; relationship of the action proposed by the public library jurisdiction to the purposes of the Act; and recommendation of the regional library network.

NOTE: Authority cited: Section 18821, Education Code. Reference: Sections 18802(i) and 18844(c), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20326. Electronic Direct Access.

This program of the Act enables library users to obtain electronic borrowing privileges and electronic information delivery privileges from libraries for which these people do not constitute the primary clientele.

(a) Each member of a regional library network is eligible to authorize library users who constitute part of its primary clientele to utilize this service and is eligible to receive reimbursement for extending this service to people who are not part of its primary clientele but who are part of the primary clientele of other members of regional library networks statewide.

(b) A member of a regional library network desiring to participate in this program shall:

(1) make its own bibliographic records and location information as described in Section 20328(a) of this subchapter available electronically statewide;

(2) at its discretion, authorize members of its primary clientele to receive electronic borrowing privileges and electronic information delivery privileges by issuing statewide electronic library cards to them;

(3) provide electronic borrowing privileges and electronic information delivery privileges to authorized holders of statewide electronic library cards; and

(4) deliver services in accordance with the protocols established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(c) An eligible borrower is a person who is authorized by and holds a valid statewide electronic library card issued by a member of any regional library network statewide.

(1) Any additional identification normally required by a library of its own primary clientele may also be required.

(2) The lending library may also require the name and current address of the borrower and the name and current address of the institution or public library jurisdiction by which the borrower is eligible for service.

(3) Items may be sent electronically to the computer transmitting the request or to a designated substitute computer or to an e-mail account.

(4) Items which cannot be transmitted electronically may be delivered physically to the member of the regional library network authorizing the eligible borrower. Alternatively, the borrower may pay for delivery costs for delivery to an alternate site. The borrower is responsible for returning the item to the library authorizing him or her as an eligible borrower or, alternatively, paying the delivery and related costs of returning the item to the lending library.

(d) Electronic transmission of information or loan of a library material of any type by an institution or a public library jurisdiction to an eligible borrower shall result in reimbursement from the state under Education Code Section 18844(d). An institution or public library jurisdiction shall not collect reimbursement for the same transaction under both the interlibrary loan program and the electronic direct access program.

(e) Reimbursable costs are those handling costs and delivery costs which a lending library incurs in filling a successfully completed electronic direct loan transaction.

(f) To obtain reimbursement, an institution or public library jurisdiction shall provide to the state board an invoice detailing its electronic direct access transactions for the appropriate period. For audit purposes, a record of these invoices shall be maintained for four years.

(g) The reimbursement formula and procedures shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18844(d), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

Article 7. Statewide Services**§ 20327. Telecommunications.**

This program of the Act assists all participating libraries in obtaining equitable access to the resources and services of all other California libraries through a telecommunications infrastructure.

(a) Each member of a regional library network is eligible to receive state funds for its participating libraries to become electronic doorways to other library resources and services statewide. The state board shall identify minimum technical specifications and/or performance standards to allow libraries to meet this designation through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(b) Any combination of regional library network members, including regional library networks, is eligible to receive state funds for linking library automation systems, supporting electronic access and resource

sharing, maintaining access to electronic files and databases, and other services pursuant to the purpose of this Act. The state board shall identify minimum technical specifications and/or performance standards for obtaining state funds through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(c) Any member of a regional library network is eligible to receive state funds to assist its participating libraries with the telecommunications ability to provide access for its clientele to services provided under this Act in a manner that is generally available statewide. The state board shall identify minimum technical specifications and/or performance standards to achieve this equity through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(d) The state board shall identify priorities, criteria, procedures, and eligible costs for telecommunications projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18850(a), Education Code.

HISTORY

1. New article 7 (sections 20327–20332) and section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20328. Bibliographic Databases.

This program of the Act ensures that the bibliographic records and location information representing resources in participating libraries are made available statewide.

(a) Members of regional library networks shall provide access to the bibliographic records and location information for those resources they share with other libraries. Bibliographic records and location information may be provided for books, serials, non–print items, information files, and other library materials. Protocols shall be established through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(b) For those library resources available for sharing but for which bibliographic records and location information are unavailable, incomplete or incompatible with current national standards for cataloging, or inaccessible in electronic format, or a combination thereof, the state board may allocate funds to:

(1) reimburse regional library network members for cataloging previously–uncataloged or inadequately–cataloged materials in an online communications format at the national standards of Machine Readable Cataloging (MARC 21; 1999 edition; Network Development and MARC Standards Office, Library of Congress) which is hereby incorporated by reference; and

(2) reimburse regional library network members for converting local bibliographic records to the online communications format at the national standards of Machine Readable Cataloging (MARC 21; 1999 edition; Network Development and MARC Standards Office, Library of Congress) which is hereby incorporated by reference.

(c) The state board may establish and maintain electronic access to bibliographic records and location information for library materials, through the creation of one or more centralized online databases, or through linking library automation system servers to one or more access clients, or both, depending upon the availability and capabilities of local or regional library resources and the priority for statewide access.

(d) The state board may allocate funds to train library staff in the standards and technologies needed to support the creation and maintenance of bibliographic databases and to utilize linked systems or equivalent access.

(e) The state board shall identify priorities, criteria, procedures, and eligible costs for bibliographic databases projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure

Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18851, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20329. Specialized Reference and Information Provision.

This program of the Act enables libraries to draw upon the specialized information resources of other libraries statewide to answer questions beyond the capacity and capability of the regional library network and its members.

(a) The state board may designate libraries, regional library networks, and information agencies to respond to queries in specific subject areas and reimburse them for their services.

(b) The state board may allocate funds to libraries and regional library networks to make available or develop and assemble information resources especially relevant to culturally diverse populations and people with disabilities, converting those resources to electronic format in information modules and making them accessible statewide.

(c) The state board shall identify priorities, criteria, procedures, and eligible costs for specialized reference and information services projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18853(a), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20330. Enhanced Reference and Information Service.

This program of the Act improves reference service at the local level in all participating libraries.

(a) Members of regional library networks or regional library networks or a combination thereof are eligible to receive state funds for reference enhancement projects.

(b) Eligible projects include but are not limited to:

(1) training in reference service provision;

(2) developing local library reference collections and services;

(3) providing consultations;

(4) conducting continuing education classes;

(5) developing and implementing reference evaluation tools; and

(6) other services as necessary to improve local reference service under the provisions of this program.

(c) Services provided under this program shall be offered to members of regional library networks.

(d) The state board shall select the projects for implementation on the basis of the following criteria:

(1) demonstrated need for the project;

(2) evidence of adequate planning;

(3) anticipated effectiveness of the proposed approach and plan of operation in addressing the need;

(4) qualifications and skills of key personnel;

(5) cost–effectiveness and adequacy of resources to achieve the project goal(s);

(6) anticipated contribution of the project to improvement of reference service in libraries; and

(7) appropriateness of the evaluation plan.

(e) Each applicant seeking funding under this program shall submit an application that addresses the criteria in Section 20330(d) of this subchapter.

(f) The state board shall identify priorities, procedures, and eligible costs for enhanced reference and information services projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(g) Each applicant receiving funds under this program shall submit a final report comparing project goals with actual accomplishments and

budget estimates with actual expenditures. The final evaluation, using the methodology specified in the application (Section 20330(d)(7) of this subchapter), shall also be included.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18853(b), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20331. Cooperative, Coordinated Resource Development.

This program of the Act encourages, promotes, and supports the cooperative acquisition and utilization of library resources among participating libraries.

(a) The state board may negotiate reduced acquisition costs or licensing costs and usage fees for members of regional library networks.

(b) The state board may allocate funds to support the trial participation of regional library network members in the use of library resources and technologies for a limited period of time, enabling them to use and evaluate information resources new to them. Member libraries may participate by contacting the state board.

(c) The state board may allocate funds to develop, license, distribute, and support electronic files or databases to be used by members of regional library networks.

(d) Any combination of regional library network members or a regional library network or a combination thereof is eligible to receive funds for cooperative, coordinated resource development projects.

(1) Eligible projects include but are not limited to:

(A) cooperative acquisition or selection processes to assure quality acquisitions and cost-effectiveness for all participants;

(B) collection agreements regarding areas of subject responsibilities for acquisition and/or long-term retention;

(C) shared storage and retention facilities;

(D) collection assessment and evaluation; and

(E) other projects as necessary to promote cooperative, coordinated resource development consistent with the purposes of this program.

(2) Each participating library involved in a project under this program shall already be capable of meeting the basic, recurring information needs of its primary clientele through its locally supported collection. Library resources purchased, in whole or in part, under this program shall be widely accessible to Californians for the useful life of those resources and shall be represented on regional and statewide bibliographic databases or electronic information access gateways.

(3) The state board shall select the projects for implementation on the basis of the following criteria:

(A) demonstrated need for the project;

(B) evidence of adequate planning;

(C) anticipated effectiveness of the proposed approach and plan of operation in addressing the need;

(D) qualifications and skills of key personnel;

(E) cost-effectiveness and adequacy of resources to achieve the project goal(s);

(F) sufficient local or other funds committed to project purposes;

(G) anticipated contribution of the project to the improvement of library collections available locally, regionally, and statewide;

(H) plan for project continuation; and

(I) appropriateness of the evaluation plan.

(4) Each applicant seeking funds under this program shall submit an application that addresses the criteria in Section 20331(d)(3) of this subchapter.

(5) The state board shall identify priorities, procedures, and eligible costs for cooperative, coordinated resource development projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(6) Each applicant receiving funds under this program shall submit a final report comparing project goals with actual accomplishments and

budget estimates with actual expenditures. The final evaluation, using the methodology specified in the application (Section 20330(d)(3)(1) of this subchapter), shall also be included.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18855, Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

§ 20332. Preservation.

This program of the Act preserves, and provides widespread access to, library materials documenting California's heritage, enhancing California's educational opportunities and economic future, and portraying California's cultural diversity.

(a) Any member of a regional library network or a regional library network or a combination thereof is eligible to receive funds for preservation projects.

(b) Eligible projects include but are not limited to:

(1) preservation of library materials in any format by reformatting, digitizing, conservation treatment, and other appropriate preservation methods;

(2) preservation program management, including needs assessment and planning, research and testing, training, disaster preparedness and recovery, and other managerial activities;

(3) improvement of collection security and the storage environment; and

(4) other projects necessary to preserve library materials consistent with the purposes of this program.

(c) Each member of a regional library network participating in a project under Education Code Section 18856 (b) shall demonstrate a commitment to ongoing preservation. Library resources preserved, in whole or part, under this program, shall be made available for long-term resource sharing purposes and shall be represented on electronic or bibliographic databases accessible regionally and/or statewide.

(d) The state board shall select the projects for implementation on the basis of the following criteria:

(1) demonstrated need for the project;

(2) evidence of adequate planning;

(3) anticipated effectiveness of the proposed approach and plan of operation in addressing the need;

(4) qualifications and skills of key personnel;

(5) cost-effectiveness and adequacy of resources to achieve the project goal(s);

(6) sufficient local or other funds committed to project purposes;

(7) uniqueness of materials to be preserved;

(8) contribution of materials to be preserved toward documenting California's heritage, enhancing California's educational and economic future, and portraying California's cultural diversity;

(9) adequacy of the resource sharing plan; and

(10) appropriateness of the evaluation plan.

(e) Each applicant seeking funds under this program shall submit an application that addresses the criteria in Section 20332(d) of this subchapter.

(f) The state board shall identify priorities, procedures, and eligible costs for preservation projects through subsequent rulemaking conducted under the provisions of the Administrative Procedure Act (Chapter 3.5 of Division 3 of Title 2 of the Government Code, commencing at Section 11340).

(g) Each applicant receiving funds under this program shall submit a final report comparing project goals with actual accomplishments and budget estimates with actual expenditures. The final evaluation, using the methodology specified in the application (Section 20332(d)(10) of this subchapter), shall also be included.

NOTE: Authority cited: Section 18821, Education Code. Reference: Section 18856(b), Education Code.

HISTORY

1. New section filed 5–8–2000; operative 6–7–2000 (Register 2000, No. 19).

Subchapter 3. Library Services for the Blind

§ 20400. Toll-Free Telephone Service.

(a) State funds for toll-free telephone service for registered patrons of the federally designated regional libraries for the blind and physically handicapped shall be used as follows:

(1) The regional library shall make available toll-free telephone service 24 hours a day to registered patrons of the regional library.

(2) Patrons of a regional library shall not use the toll-free telephone service for ordinary requests. For example, the toll-free number shall not be used to submit requests from a new reading list.

(3) The regional library shall acquire a tape recorder to allow patrons to leave messages after normal working hours. Normal working hours are defined as 8 a.m. to 4 p.m., Monday through Friday.

(4) The regional library shall submit a claim for reimbursement of the billed costs of toll-free telephone service to the California State Library.

NOTE: Authority cited: Section 19325, Education Code. Reference: Section 19325, Education Code.

HISTORY

1. Repealer of Chapter (Sections 20300–20354) and new Chapter 3 (Section 20400) filed 2–19–82; effective thirtieth day thereafter (Register 82, No. 8). For prior history, see Registers 79, No. 29; 79, No. 15; 79, No. 11; 77, No. 22; and 71, No. 11.

Chapter 2. California Library Construction and Renovation Board

Article 1. General Provisions

§ 20410. Definitions.

(a) Addition/renovation. “Addition/renovation” means a project which adds new square footage to an existing public library in conjunction with remodeling that existing public library building.

(b) Applicant. “Applicant” means a local jurisdiction as defined under Education Code sections 19956 and 19961 which is eligible for and in the process of making application for California Library Construction and Renovation Bond Act funds.

(c) Appraised value. The “appraised value” means the value of land, an existing building or any other improvements as determined by a certified appraisal performed within one year prior to the date of the State Librarian’s deadline for application.

(d) Built-in equipment. “Built-in equipment” means equipment which is constructed as part of the building which is not detachable and therefore not removable from the building or grounds.

(e) Completion of the public library project. “Completion of the public library project” means the completion of the construction contract and the receipt by the applicant of the final state payment of funds.

(f) Conversion. “Conversion” means a project which converts by remodeling an existing building, not currently used for public library purposes, into a public library building.

(g) Eligible project costs. “Eligible project costs” are costs authorized in Education Code sections 19957, 19962(d) and 19963. The terms “eligible project costs” and “eligible project expenditures” are used synonymously.

(h) Eligible projected construction cost. “Eligible projected construction cost” means:

(1) for the remodeling portion of conversion, addition/renovation or remodeling projects: the projected construction costs limited specifically to the purposes of energy conservation, providing access for the disabled, and rehabilitation of existing facilities to bring them into compliance with current health and safety requirements established by State Statutes, State Building Codes and local building codes for public facilities;

(2) for new construction: those construction contract costs which are derived by calculating the normal public construction costs in the applicant’s area (See section 20418(c)(1)–(7)).

(i) Excessive. “Excessive” means going beyond the limits of what is customary. The State Librarian shall be the sole judge of the limits of what is customary with respect to public library construction projects.

(j) Fastened to the structure. “Fastened to the structure” means bolted, screwed, or welded to the structure of the building or otherwise permanently attached to the building.

(k) Library building program. The “library building program” means a document which provides the analysis of the need for the library project and defines the specific space requirements for a new or improved library building in a manner specified in Appendix 3.

(l) Local matching funds. “Local matching funds” means 35 percent of the eligible project costs.

(m) New construction. “New construction” means the construction of new building square footage for:

(1) a totally new library building, or

(2) an addition to an existing library building, or

(3) an addition to an existing building which is being converted to a library building.

(n) Project. “Project” means a new construction or remodeling project for purposes authorized under Education Code section 19957.

(o) Projected construction cost. “Projected construction cost” means the projected cost of the construction contract for the library project estimated by architects and engineers licensed to practice in the State of California.

(p) Qualified library consultant. “Qualified library consultant” means a person who:

(1) possesses a Masters in Library Science (MLS) or equivalent 5th year degree in library science,

(2) has acted as a consultant to provide at least five of any of the services specified in section 20414(1)(4)(A) through (E). for at least five different library projects within the last ten years, and

(3) has provided the services as an independent contractor, or as the employee of an organization involved with the administration of public libraries.

(q) Remodeling. “Remodeling” means any form of renovation or rehabilitation of an existing facility. The three terms, remodeling, renovation and rehabilitation are used synonymously.

(r) State matching funds. “State matching funds” means 65 percent of the eligible project costs.

(s) Supplemental funds. “Supplemental funds” means any additional local funds above and beyond the eligible project costs which are directly related to the library construction project and are required for the completion of the library construction project.

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19952, 19956, 19957, 19958, 19961, 19962, 19963, 19964, 19966 and 19967 Education Code.

HISTORY

1. New section filed 10–31–90; operative 10–31–90 (Register 90, No. 50).

2. Editorial renumbering of Division 1, Chapter 24 (sections 20000–20400) to Division 2, Chapter 1, and editorial renumbering of former Division 2, Chapter 1 (Sections 20410–20426) to new Division 2, Chapter 2 (Register 2001, No. 45).

Article 2. California Library Construction and Renovation Program

§ 20412. Eligibility for Grants.

(a) Joint Powers Agreements (JPA). Grants shall be available to applicants participating in joint powers agreements as long as each party of the JPA is an eligible grant recipient as defined in Education Code section 19956.

(b) Official library service area populations of the project. For the purpose of making application for state funds from the California Library Construction and Renovation Board for a public library construction project, when providing the current (1990) and projected (2010) popula-

tion of the library service area, the applicant shall only count the people residing:

- (1) within the official legal boundaries of the applicant, and
- (2) within the service area of the proposed project, but
- (3) exclude all people living within the boundaries of other special district, county, or city library service areas, for which there is no library service contract with the applicant.

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19956, 19961 and 19966 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20414. Purposes of Grants.

(a) Allowance for art works. Any work of art which is acquired as an eligible project cost shall be fastened to the structure of the library building or otherwise permanently attached to the grounds.

(b) Acquisition of a prefabricated or existing building

(1) A local jurisdiction may acquire, through purchase or donation, a prefabricated building or an existing building for the purpose of converting it to a public library.

(2) The eligible cost of the building shall be determined in the following ways:

(A) If the building will be purchased by the applicant after the State Librarian's deadline for application, either the purchase price or the appraised value of the building shall be an eligible cost for the library project;

(B) If the building has already been purchased by the applicant prior to the State Librarian's deadline for application, the appraised value of the building shall be an eligible cost for the library project;

(C) If the building has been or will be donated to the applicant, the appraised value of the building shall be an eligible cost for the library project.

(3) In the case (A), where the purchase price of the building is used for the eligible cost, the applicant shall provide documentation acceptable to the State Librarian demonstrating proof of the purchase price paid for the building. In case (A), the choice between the use of either the purchase price or the appraised value of the building shall be at the option of the applicant.

(4) A building shall be considered acquired by the applicant on the date the title to the building has been transferred to and recorded in the name of the applicant.

(c) Rejection or the application for conversion of an existing building. The State Librarian may reject an application for the purchase of an existing building, if the State Librarian finds the existing building to be unsuitable for conversion to a public library because of:

- (1) poor structural condition,
- (2) presence of toxic materials,
- (3) building conditions which limit effective library service,
- (4) inappropriate location to serve as a public library,
- (5) conversion costs in excess of the normal public construction cost in the applicant's area for new construction, or
- (6) excessive costs of site acquisition, demolition or development.

(d) Rejection of the application for additional renovation because of the existing library facility. The State Librarian may reject an application for an addition/renovation project, if the State Librarian finds that the existing building is unsuitable for renovation because of:

- (1) poor structural condition,
- (2) presence of toxic materials,
- (3) building conditions which limit effective library service,
- (4) inappropriate location to continue serving as a public library, or
- (5) renovation costs in excess of the normal public construction cost in the applicant's area for new construction.

(e) Multipurpose buildings. A "multipurpose project" means a project which results in a multi-use facility for which part of the use is for the delivery of public library services. The applicant shall determine the total and eligible project costs for that portion of the multipurpose project that

is dedicated solely to the delivery of public library services. The architect shall provide a cost analysis comparing the budget of the multipurpose project as a whole with the budget of the library portion of the project.

(f) Land ownership. The applicant may apply for state funds if the applicant owns the proposed library site or shall acquire the site as part of the project. If ownership of the library site is not in the name of the applicant, the applicant may apply for state funds only if the applicant obtains an option to purchase the site, or a lease or lease-purchase agreement for a period of not less than 20 years following completion of the project, or the useful life of the building, whichever is longer. The lease or lease purchase agreement may contain a provision that makes the performance of the agreement contingent upon funding of the project by the California Library Construction and Renovation Board.

(g) Acquisition of a site.

(1) A local jurisdiction may acquire land for the purpose of building a public library facility, by:

- (A) purchase,
- (B) donation,
- (C) lease, or
- (D) lease-purchase agreement.

(2) The eligible cost of the land for the library project's site shall be determined in the following ways:

(A) If the land will be purchased by the applicant after the State Librarian's deadline for application, either the purchase price or the appraised value of the land shall be an eligible cost for the library project;

(B) If the land has already been purchased by the applicant within three years of the State Librarian's deadline for application, either the purchase price or the appraised value of the land shall be an eligible cost for the library project;

(C) If the land has already been purchased by the applicant prior to three years from the State Librarian's deadline for applicant, the appraised value of the land shall be an eligible cost for the library project;

(D) If the land has been or will be donated to the applicant, the appraised value of the land shall be an eligible cost for the library project.

(3) In cases (A) and (B), where the purchase price of the land is used for the eligible cost, the applicant shall provide documentation acceptable to the State Librarian demonstrating proof of the purchase price paid for the land. In cases (A) and (B), the choice between the use of either the purchase price or the appraised value of the land shall be at the option of the applicant.

(4) The value of land, which has been acquired through a lease or a lease-purchase agreement, shall not be an eligible cost.

(5) The value of land, already owned by the applicant and dedicated to the operation of an existing public library, shall not be an eligible cost.

(6) Land shall be considered acquired by the applicant on the date the title to the land has been transferred to and recorded in the name of the applicant.

(h) Rejection of the application because of the site. The State Librarian may reject an application, if the State Librarian finds that the proposed site has:

- (1) excessive acquisition costs,
- (2) title restrictions that adversely effect the state's interest in the site,
- (3) limited vehicular accessibility, in terms of traffic volume on roads or streets, or parking capacity for the library building,
- (4) inappropriate geographical location within the library service area,
- (5) excessive site development costs,
- (6) excessive demolition costs,
- (7) limited lot size or poor configuration,
- (8) location in a 100-year flood plain, or
- (9) non-compliance with California Environmental Quality Act (CEQA).

(i) Site development and demolition. Site development and demolition costs associated with the project are eligible project costs, but shall be directly related to the construction of the library facility. Eligible site development and demolition costs shall be limited to work performed within the legal boundaries of the library project's site, except in the case of utili-

ties, paving, curbs or gutters which may extend 100 feet beyond the legal boundaries of the site if the work is required to tie-in the library with existing utilities and roads.

(j) Remodeling. General remodeling of an existing building is not an eligible project cost. Only remodeling limited specifically to the purposes of energy conservation, providing access for the disabled, and rehabilitation of existing facilities to bring them into compliance with current health and safety requirements for public facilities is an eligible project cost. This applies to the remodeling of any facility, including existing library buildings, existing library buildings which are being expanded, or existing buildings which are being converted into a library building.

(k) Architects and engineers.

(1) Payment of fees for any work related to the library construction project performed by architects and engineers is an eligible project cost.

(2) "Architects and engineers" means a person required to be certified or licensed by either the State Board of Architectural Examiners, State Board of Landscape Architects, State Board of Registration for Professional Engineers and Land Surveyors, or the State Board of Registration for Geologists and Geophysicists, and who possesses a current and valid license or certificate from that body.

(l) Other design professionals. Payment of fees for any work related to the library project performed by other design professionals is an eligible project cost. "Other design professionals" means:

(1) Interior designers employed to design furnishings and equipment, provide floor layouts, write specifications, and otherwise develop contract documents and supervise the bidding of furnishings and equipment for the interiors contract or portion of the general contract for the library construction project;

(2) Construction cost estimators employed to provide project cost estimates;

(3) Asbestos consultants registered by the California Occupational Safety and Health Administration (CAL/OSHA) who are employed to perform asbestos surveys and asbestos abatement contract administration;

(4) Qualified library consultants providing:

- (A) public library needs assessments,
- (B) public library facility master plans,
- (C) public library site studies,
- (D) public library building programs, and
- (E) public library architectural plans reviews.

(m) Ineligible purposes. Project costs which are ineligible also means, but is not limited to, the following:

(1) Costs associated with construction administration or project management performed by the local public works department of the applicant, or by individuals who are not licensed architects, engineers or other design professionals as specified in Education Code section 19957;

(2) Costs associated with the performance of appraisals;

(3) Costs associated with the performance of an audit;

(4) Costs associated with the acquisition of land by use of a lease or lease-purchase agreement

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19957, 19958, 19962, 19963, 19964 and 19967 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20416. Matching Funds.

(a) Resolution certifying the project budget the local funding commitment, supplemental funds and the application

(1) The governing body of the applicant shall certify by resolution the following:

(A) the project budget contained in the application (See section 20418(e) and application form section entitled "Library Project Budget"),

(B) the commitment of local matching funds,

(C) the applicant's ability to finance the supplemental funds necessary to complete the project in a timely manner (See section 20418(d)),

(D) that local matching and supplemental funds will be available when needed to meet the project's cash flow requirements (See section 20418(d)),

(E) the accuracy and truthfulness of all information contained in the application form (See section 20420(e)), and

(F) a commitment to operate the completed facility and provide direct public library service, unless the facility shall be operated by a jurisdiction other than the applicant (See section 20424(a)).

(2) The resolution shall be supported by official action taken at an open meeting of the governing body of the applicant and duly recorded in the minutes of that meeting. The resolution shall be signed by the duly elected head of the jurisdiction and notarized or validated by the affixing of the official seal of the clerk of the jurisdiction. The resolution shall be submitted with the application prior to the State Librarian's deadline for application. An application submitted without the resolution shall be deemed ineligible by the State Librarian.

(3) Private funds from donations, gifts or foundations which are identified as such in the library project budget section of the application form shall be deposited in a fund account under the complete control of the applicant prior to the State Librarian's deadline for applications. An account statement bearing on its face an original signature of the applicant's fiscal officer and a statement certifying the necessary account balance from private sources and the applicant's control over the account, shall be submitted with the application prior to the State Librarian's deadline for applications.

(b) In-kind expenditures or donations. In-kind expenditures or donations of materials, labor, equipment, works of art, articles or services of value of any kind shall not qualify as matching funds, and shall not be counted as eligible project costs.

(c) Land credit.

(1) The State Librarian shall allow credit for all land already acquired by the applicant, which has not been rejected by the State Librarian as a library site, except:

(A) land already owned by the applicant and dedicated to the operation of an existing public library;

(B) land not owned by the applicant, but secured by a lease or lease-purchase agreement.

(2) The credit allowance for land purchased by the applicant prior to three years of the State Librarian's deadline for applications shall be the appraised value of the land for the library project.

(3) The credit allowance for land purchased by the applicant for the library project within three years of the State Librarian's deadline for applications shall be the purchase price paid by the applicant for the land or the appraised value of the land.

(4) No credit allowance shall be made for land which will be purchased by the applicant after the State Librarian's deadline for application (See section 20414(g)(2)(A)).

(5) The credit allowance for land which has been donated to the applicant prior to the State Librarian's deadline for applications shall be the appraised value of the land for the library project.

(6) No credit allowance shall be made for land which will be donated to the applicant after the State Librarian's deadline for application (See section 20414(g)(2)(D)).

(7) No credit allowance shall be made for land which has been acquired through a lease or a lease purchase agreement.

(8) No credit allowance shall be made for land which is already owned by the applicant and dedicated to the operation of an existing public library.

(d) Appraisal.

(1) For the purpose of determining the appraised value of land or a building, a certified appraisal shall be obtained by the applicant and submitted with the application prior to the State Librarian's deadline for applications.

(2) A "certified appraisal" means conformance with the requirements of the Lancaster-Montoya Appraisal Act (Civil Code sections 1922 to 1922.14).

(3) The appraiser performing the certified appraisal shall be a member of the American Institute of Real Estate Appraisers, or the Appraisal Institute and carry the MAI designation, or a member of the Society of Real Estate Appraisers and carry the SREA designation.

(4) The appraiser shall be an independent contractor, and not an employee or agent of the applicant or the seller of the proposed library site.

(5) If the certified appraisal is contested by either the State Librarian or the applicant, one or more additional certified appraisals shall be obtained by the applicant and the difference in the appraisals shall be resolved with a determination of land value made by the Office of Real Estate and Design Services in the Department of General Services for the State of California.

(e) Furnishings credit. Cash expenditures, not to exceed 10 percent of the eligible project costs, for furnishings required to make the facility fully operable may be credited towards the 35 percent matching funds requirement.

(f) Architectural plans credit.

(1) The State Librarian shall give credit for architectural plans and drawings developed solely for the public library project for which application is being made. The plans and drawings shall have been created by an architect or engineer licensed to practice in the State of California. The combined credit and eligible cost for architectural plans and drawings shall not exceed twelve percent of the construction cost of the project.

(2) "Architectural plans and drawings" means, and is limited to, any of the following documents necessary for the design of the public library building:

(A) conceptual plans and drawings,

(B) schematic plans and drawings,

(C) preliminary or design development plans and drawings, and

(D) final working drawings and specifications, commonly referred to as contract documents.

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19957, 19961, 19962, 19964 and 19967 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20418. Normal Public Construction Costs and Excessive Costs.

(a) Architect's projected construction cost estimate and conceptual plans. A projected construction cost estimate for a conversion, addition/renovation, remodeling or new project shall be provided by architects and engineers. Conceptual plans shall be submitted justifying the architectural and engineering estimate of the projected construction cost. The normal public construction costs in the applicant's area shall be determined using the methods specified in sections 20418(b)(1)-(4) for remodeling and sections 20418(c)(1)-(7) for new construction.

(b) Normal public construction costs in the applicants area for remodeling.

(1) The normal public construction costs in the applicant's area for the remodeling portion of conversion, addition/renovation or remodeling projects shall be only the eligible construction project costs portion of the projected construction cost estimate provided by architects and engineers. In addition to the projected construction cost estimate, architects and engineers shall also provide the eligible projected construction cost estimate for the remodeling portion of conversion, addition/renovation or remodeling projects.

(2) Remodeling, conversion, and addition/renovation projects shall submit:

(A) An engineering study performed by a licensed engineer which assesses the structural integrity of the existing building; and

(B) An asbestos survey which determines the presence of asbestos containing materials in the building and provides an initial cost estimate for the safe removal or abatement of the materials. The building survey for asbestos containing materials shall be performed by an asbestos consultant registered with the California Occupational Safety and Health Administration (CAL/OSHA); and

(C) For energy conservation projects, an energy audit performed by a licensed engineer shall be submitted; and

(D) For projects which involve rehabilitation for health and safety purposes, the architect shall cite specific sections of State Statutes, State Building Codes and local building codes which demonstrate that the existing building is in need of rehabilitation for health and safety purposes.

(3) For remodeling and conversion projects, an eligible contingency not to exceed twenty percent of the eligible projected construction cost for remodeling may be utilized in the project budget.

(4) For addition/renovation projects, an eligible contingency not to exceed fifteen percent of the eligible projected construction cost of the new construction, and an eligible contingency not to exceed twenty percent of the eligible projected construction cost for remodeling, may be utilized in the project budget.

(c) Normal public construction costs in the applicant's area for new construction.

(1) For new construction, the calculation of the normal public construction cost in the applicant's area shall be based on the current (1991) cost of public library buildings, which shall be \$115.20 per square foot. This figure does not include costs for land acquisition, site development, demolition, works of art, shelving and built-in equipment, or movable furnishings and equipment.

(2) The current cost shall be modified utilizing the following "California Locality Adjustment Table by County." The current cost figure is multiplied by the factor in the adjustment table to obtain the locally adjusted cost of public library buildings.

California Locality Adjustment Table by County

<i>County</i>	<i>Multiplier Factor</i>
Alameda	1.35
Alpine	1.20
Amador	1.19
Butte	1.14
Calaveras	1.11
Colusa	1.14
Contra Costa	1.30
Del Norte	1.15
El Dorado	1.20
Fresno	1.19
Glenn	1.14
Humboldt	1.15
Imperial	1.17
Inyo	1.21
Kern	1.17
Kings	1.19
Lake	1.14
Lassen	1.11
Los Angeles	1.27
Madera	1.11
Marin	1.31
Mariposa	1.13
Mendocino	1.14
Merced	1.12
Modoc	1.11
Mono	1.20
Monterey	1.26
Napa	1.22
Nevada	1.18
Orange	1.29
Placer	1.20
Plumas	1.14
Riverside	1.23
Sacramento	1.21
San Benito	1.26
San Bernardino	1.23
San Diego	1.18
San Francisco	1.39
San Joaquin	1.19
San Luis Obispo	1.15
San Mateo	1.33

<i>County</i>	<i>Multiplier Factor</i>
Santa Barbara	1.25
Santa Clara	1.29
Santa Cruz	1.22
Shasta	1.11
Sierra	1.18
Siskiyou	1.11
Solano	1.23
Sonoma	1.22
Stanislaus	1.11

<i>County</i>	<i>Multiplier Factor</i>
Sutter	1.13
Tehama	1.11
Trinity	1.11
Tulare	1.13
Tuolumne	1.12
Ventura	1.24
Yolo	1.14
Yuba	1.13

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(3) The locally adjusted cost shall then be increased by 1/3 percent per month for each month from the State Librarian's deadline for application until the anticipated date of construction bids for the project. This figure shall be the eligible projected construction cost. This figure, or a lesser amount, shall be utilized as the normal construction cost in the applicant's area unless justification for a higher figure can be made based upon recent local bidding experience.

(4) At the applicant's option, this eligible projected construction cost figure may be increased by averaging the construction contract costs for a minimum of three comparable public construction projects bid within two years of the State Librarian's deadline for application. If three comparable public construction project bids cannot be found within two years of the State Librarian's deadline for application, this locally determined comparable cost approach cannot be utilized by the applicant.

(5) "Comparable public construction projects" shall be post offices, museums, courthouses, city halls, auditoriums, community college and public libraries, senior citizens centers, public schools and recreation centers.

(6) The locally determined comparable cost figure shall be averaged with the eligible projected construction cost to obtain the revised eligible projected construction cost figure, which shall be considered to be the normal public construction cost in the applicant's area.

(7) For projects with new construction, an eligible contingency not to exceed fifteen percent of the eligible projected construction cost may be utilized in the project budget.

(d) Certification of excessive costs. For projects where the projected construction cost exceeds the eligible projected construction cost, the applicant shall provide certification in the form of a resolution demonstrating the capability to finance the supplemental funds necessary to construct the project at the higher cost (See section 20416 (a)). The resolution shall also guarantee that the required local matching and supplemental funds necessary to complete the project at the level stated in the project budget will be made available for the project in a timely manner.

(e) Project budget. The project budget shall include all expenditures for eligible project costs, as well as any other capital outlay expenditures directly related to the library construction project. In addition, the project budget shall show the sources of all funding including state matching, local matching, and local supplemental funding. The project budget, specified in the library project budget section of the application, shall be certified by resolution of the governing body of the applicant (See section 20416. (a)).

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19957, 19962, 19963 and 19964 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20420. Application for Grants.

(a) Minimum local matching requirement. To be eligible for state matching funds, the minimum eligible project cost shall be at least \$53,846, and the applicant shall provide at least \$18,846 in local matching funds and request not less than \$35,000 in state matching funds.

(b) Construction bids already advertised. If construction bids have been submitted prior to six months before the State Librarian's deadline for application, and all bids were formally rejected resulting in no contract award, the project may be submitted during the grant application process.

(c) Application forms.

(1) Each applicant may make a preliminary application on the form shown in Appendix I entitled "Pre-application for California Library Construction and Renovation Bond Act Funds." If an applicant makes a pre-application, the State Librarian shall provide a preliminary evaluation of the proposal and notify the applicant of the competitiveness of the project.

(2) Each applicant shall make a formal application for state funds on the form shown in Appendix 2 entitled "Application for California Library Construction and Renovation Bond Act Funds" and provide a li-

brary building program using the outline shown in Appendix 3 entitled "Outline of Requirements for a Library Building Program."

(d) Deadline for applications and late or incomplete application submissions

(1) The pre-application shall be received by the Bond Act Fiscal Officer, or that officer's designee, at the following location by 3 p.m. on November 21, 1990:

California State Library
Library & Courts Building
Fiscal Services – Room 215
914 Capitol Mall
Sacramento, California 95814-4877

(2) If a pre-application is not received by that time, the State librarian shall not review the pre-application and shall not notify the applicant of the competitiveness of the project, but the applicant may still make application.

(3) Applications for the first funding cycle shall be received by the Bond Act Fiscal Officer, or that officer's designee, at the following location by 3 p.m. on February 15, 1991:

California State Library
Library & Courts Building
Fiscal Services – Room 215
914 Capitol Mall
Sacramento, California 95814-4877

(4) If funds are available after the first funding cycle, applications for the second funding cycle shall be received by the Bond Act Fiscal Officer, or that officer's designee, at the following location by 3 p.m. on July 19, 1991:

California State Library
Library & Courts Building
Fiscal Services – Room 215
914 Capitol Mall
Sacramento, California 95814-4877

(5) If an application, or documents required to support the application, are not received by the State Librarian's deadline for applications for the first funding cycle, the applicant shall not be considered by the State Librarian or board for grant approval during the first funding cycle.

(6) If an application, or documents required to support the application, are not received by the State librarian's deadline for applications for the second funding cycle, the applicant shall not be considered by the State Librarian or board for grant approval during the second funding cycle.

(7) The State Librarian may waive any minor procedural problems or technicalities which occur during the submission of applications.

(e) Certification of the application. The applicant shall certify, by resolution (See section 20416(a)) and by signing the application form, the accuracy and truthfulness of the information provided during the application for state funds.

(f) Corrections in project application information. If due to oversight or clerical error, the information provided by the applicant during the application process proves to be inaccurate, the board, at its discretion, has the authority to make minor adjustments to correct obviously inaccurate information in applications.

(g) Only one pre-application and one application per project.

(1) Only one pre-application for each proposed project shall be submitted by the applicant.

(2) Only one application for each proposed project shall be submitted by the applicant.

(h) Withdrawal of an application. If it is determined by the applicant that a project cannot be built within the scope of the application submitted to the State Librarian and board, the application may be withdrawn by the applicant at any time.

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19956, 19957, 19960, 19961, 19962, 19963, 19964, 19965, 19966 and 19967, Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

2. Editorial correction of subsection (d)(5) (Register 97, No. 24).

§ 20422. Audits and State Payments.

(a) Audit requirements. The State Librarian shall require a final fiscal and program compliance audit of eligible project funds performed by an independent Certified Public Accountant (CPA) utilizing Generally Accepted Accounting Principles (GAAP), to be submitted to the State Librarian by the grant recipient prior to release of the final ten percent of state project funds.

(b) State payments.

(1) The State Librarian shall authorize state grant payments to the grant recipient on a periodic reimbursement basis. Payments shall be made no more frequently than on a monthly basis. Payment requests shall state that the reimbursement request is being made only for eligible project expenditures. Payment requests shall be submitted with an original signature of the grant recipient's fiscal officer, or that officer's designated agent, affixed to an original copy of the payment request.

(2) The final state payment of ten percent shall be made when:

(A) all eligible project funds have been expended;

(B) the grant recipient certifies, by providing a compliance letter from the local building official, that the building has been completed in accordance with the approved plans and specifications, including the installation of bookstacks, funded by state and local matching funds;

(C) the grant recipient shows evidence of having recorded a "Notice of Completion" for which the lien period has expired and for which all outstanding liens have been settled;

(D) the grant recipient shows evidence of the building title having been accepted by the grant recipient;

(E) the grant recipient provides evidence that the State's interest in the building, and the land, if the land is owned by the grant recipient, has been recorded in the title record (See section 20424 (c)); and

(F) the grant recipient submits a final audit which is acceptable to the State Librarian (See section 20422(a)).

NOTE: Authority cited: Sections 19960, Education Code. Reference: Sections 19957, 19958, 19962, 19963, 19965 and 19967 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20424. Facility Dedicated to Direct Public Library Service.

(a) Statement of library jurisdiction's willingness to operate. If the proposed library facility will not be operated by the applicant, a resolution indicating a willingness to operate the facility shall be adopted by the governing body, or its designated officer who has been empowered to act in its behalf that will be operating the facility after its completion. This resolution shall be submitted with the application prior to the State Librarian's deadline for application.

(b) Marketable record title.

(1) "Marketable record title" means that the title to the property shall include both legal and equitable estates, shall be free from unknown encumbrances, and shall be in a condition that an informed and reasonable buyer, exercising reasonable care would and should accept it.

(2) The applicant shall obtain marketable record title to the library site, unless the library site shall be secured through a lease or lease-purchase agreement. When the applicant owns the site, the applicant shall provide the State Librarian with proof that the applicant holds marketable record title to the library site.

(3) If the library site is being secured through a lease or lease-purchase agreement, the applicant shall provide the State Librarian with proof that the lessor holds marketable record title to the library site.

(4) If the applicant has acquired or is acquiring a building for the purpose of converting it into a public library, the applicant shall obtain marketable record title to the building. The applicant shall provide the State

Librarian with proof that the applicant holds marketable record title to the building.

(5) Proof of marketable record title shall include a preliminary title report. The preliminary title report shall include, but not be limited to, the following as applicable:

(A) name and addresses of all owners and their respective interests,

(B) a description of the exact property being proposed,

(C) a statement of easements, appurtenances, encumbrances, and all other matters of record that might impact on the use of the property, and

(D) a plat plan or survey showing in detail the location of the property and any easements.

(6) If exceptions to marketable record title are present, the applicant's legal counsel shall submit a written opinion indicating that the exceptions present do not diminish the use of the property for a public library building or in any way diminish or limit the state's interest in the property.

(7) Proof of marketable record title to a building and site, or proof that marketable record title to a building and site can be obtained, shall be submitted with the application prior to the State Librarian's deadline for applications.

(c) State's interest recorded in the title record.

(1) When state grant fund have been provided by the California Library Construction and Renovation Board for acquisition of or credit for land, the grant recipient shall record in the title record the state's interest in the land upon completion of the project.

(2) The title record for land shall specify the state's interest by recording that the land shall be used to provide direct public library service for twenty years following the completion date of the project or the useful life of the library building in place upon it, whichever is longer, as specified in Education Code section 19967.

(3) When state grant funds have been provided by the California Library Construction and Renovation Board for acquisition, construction, or remodeling of a library facility, the grant recipient shall record in the title record the state's interest in the facility upon completion of the project.

(4) The title record for the building shall specify the state's interest by recording that the library facility shall be used to provide direct public library service for twenty years following the completion date of the project or the useful life of the building, whichever is longer, as specified in Education Code section 19967.

(d) Value determined by mutual agreement. For purposes of Education Code section 19967, determining the value of the facility and land by mutual agreement shall mean by use of a certified appraisal as called for in section 20416 (d).

NOTE: Authority cited: Section 19960, Education Code. Reference: Sections 19956, 19957, 19962 and 19967 Education Code.

HISTORY

1. New section filed 10-31-90; operative 10-31-90 (Register 90, No. 50).

§ 20426. Changes in Projects and Withdrawal of a Grant.

(a) Changes in a project. Any change in the project made by the grant recipient subsequent to the approval of the project by the board, which significantly changes the project information provided during the application process, shall be approved by the State Librarian. The State Librarian shall have the sole authority to determine if a change is significant. If the State Librarian does not approve the change, the grant recipient may appeal the State Librarian's decision to the board. The decision of the board regarding a change in the project is final and binding.

(b) Withdrawal of a grant. If it is determined by the grant recipient that a project cannot be built within the scope of the approved application, the project may be withdrawn by the grant recipient at any time. The board shall disapprove matching state funds for projects which have been withdrawn by the grant recipient.

**PRE-APPLICATION
FOR
CALIFORNIA LIBRARY CONSTRUCTION AND RENOVATION BOND ACT FUNDS**

APPENDIX I (To Section 20420 (c))

Administered by the California State Library: Gary E. Strong, California State Librarian

The pre-application shall be received by the Bond Act Fiscal Officer, or that officer's designee, at the following location by 3 p.m. on November 21, 1990:

California State Library
Library & Courts Building
Fiscal Services - Room 215
914 Capitol Mall
Sacramento, California 95814-4877

The applicant local jurisdiction pursuant to the Education Code, Title 1, Division 1, Part 11, Chapter 11, Sections 19950-19981 and Title 5, Division 2, Chapter 1, Sections 20410-20426 of the California Code of Regulations, hereby makes pre-application for a state matching grant for the construction or remodeling of the public library facility described herein:

PROJECT IDENTIFICATION

OFFICIAL NAME OF PROJECT: ► _____

TYPE OF APPLICANT: City: ☐ County: ☐ City/County: ☐ District: ☐

Joint Powers Agreement (JPA): ► _____
(If applicable — specify names of parties)

GRANT APPLICANT: ► _____
Legal name of jurisdiction that will own building

Elected Official: ► _____
Mayor, Chairperson of Board of Supervisors, Head of Special District, authorized to sign the pre-application

Title: ► _____ Phone: ► _____

Address: ► _____

For JPA Projects Only

If application is by a JPA applicant, provide the elected official of the second party.

Elected Official: ► _____
Mayor, Chairperson of Board of Supervisors, Head of Special District, authorized to sign the pre-application

Title: ► _____ Phone: ► _____

Address: ► _____

LIMIT COMMENTS THROUGHOUT THE ENTIRE FORM TO SPACE PROVIDED UNLESS OTHERWISE STATED. LIMIT TYPE SIZE TO NO SMALLER THAN 11 POINTS, AND 12 PITCH (ELITE) WITH NO MORE THAN 6 LINES PER INCH. ATTACHMENTS SHALL NOT BE ACCEPTED UNLESS REQUIRED BY REGULATION OR CALLED FOR ON THE PREAPPLICATION FORM.

LIBRARY JURISDICTION: ► _____
Legal name of library that will operate the service in the building

Library Director Name: ► _____

Title: ► _____ Phone: ► _____

Address: ► _____

PROJECT EVALUATION DATA

GROSS SQUARE FOOTAGE:

The current gross square footage of the existing public library(s) being replaced is:

► _____ SF

(If there is no existing facility, enter "0")

At completion of the project, the total gross square footage of the proposed public library building will be:

► _____ SF

STANDARD METROPOLITAN STATISTICAL AREA (SMSA):

Is the proposed site for the project located in a Standard Metropolitan Statistical Area (SMSA)?

Yes ☐ No ☐

DISTANCE TO NEAREST EXISTING PUBLIC LIBRARY FACILITY:

(For purposes of this distance determination only, a "public library facility" means a building of 1,400 square feet or more providing direct public library service.)

Number of miles to the nearest existing public library facility other than the library facility(s) being replaced by the proposed project:

► _____ Miles

(Provide mileage to the nearest 1/10th or a mile by driving the distance in an automobile from the proposed site to the nearest public library facility, regardless of what jurisdiction the public library is located in.)

Name of Nearest Public Library Facility: ► _____

Square Footage of Nearest Public Library Facility: ► _____ SF

1 NUMBER OF SQUARE MILES IN THE PROJECT SERVICE AREA:

2
3 Number of square miles in the project service area: ► _____ SQ Miles4
5
6 LIBRARY PROJECT'S SERVICE AREA 1990 POPULATION: ► _____7
8 LIBRARY PROJECT'S SERVICE AREA 2010 POPULATION: ► _____9
10
11 AGE OF THE EXISTING PUBLIC LIBRARY:12
13 When was the existing public library building, which will be replaced or improved by the proposed
14 project, initially built? ► _____ Year15
16 (If proposed project will replace more than one building, list the oldest of the buildings.)17
18 (If there is no existing facility, enter "0")19
20
21 CONDITION OF THE EXISTING PUBLIC LIBRARY:22
23 When was the most recent structural renovation or
24 expansion of the existing public library building?25
26 ► _____ Year27
28 (If proposed project will replace more than one building, list the most recent activity for any
29 of the buildings.)30
31 (If there is no existing facility, enter "0")32
33 ELECTRONIC INFORMATION DELIVERY UNITS: (Public use units only.)34
35 For the purposes of this section, "electronic information delivery units" means computer terminals, CD-ROM
36 readers, microcomputers, computer printers, photocopy machines, facsimile machines, minicomputers,
37 audio-visual listening or viewing units, microform readers and reader/printers, TDD units, downlink satellite
38 dishes, and CATV monitor/tuners dedicated for the use of the public.39
40 Number of electronic information delivery units dedicated to public use to be housed in the proposed project,
41 and specified in the project's building program and furnishings and equipment budget:42
43 ► _____ Units

44 MEETING SPACE: (Public use space only.)

45
46 For purposes of this section, "meeting space" means community meeting space, conference space, quiet study
47 space, literacy training space, children's story hour space, theatres, and multipurpose space dedicated for the use
48 of the public.49
50 Number of square feet of meeting space dedicated to public use to be housed in the proposed project, and speci-
51 fied in the project's building program:52
53 ► _____ SF

CHANGING CONCEPTS IN PUBLIC LIBRARY SERVICE

Describe how the proposed project will respond to changing concepts in public library service:

NEEDS ASSESSMENT

Briefly describe why the proposed project is needed, and the degree to which citizens, community organizations and local agencies participated in the determination of the need. Summarize physical facility and service limitations, population growth, changing demographic characteristics etc.:

PROJECT BUDGET ESTIMATE

Estimated Total Eligible Project Costs: ► \$ _____

Local Match (35%): ► \$ _____

State Match (65%): ► \$ _____

APPLICATION TIMETABLE

During which funding allocation cycle does the applicant intend to apply?

☐ First Cycle

☐ Second Cycle

SIGNATURES

The parties below attest to and endorse the accuracy and truthfulness of the pre-application for California Library Construction and Renovation Bond Act funds. It is further understood that this pre-application is not binding, but is necessary to obtain the State Librarian's notification of the competitiveness of the proposed project.

LIBRARY DIRECTOR

I hereby affirm that the library jurisdiction, for which I am the administrative agent, is aware of the pre-application.

► _____ Signature Date

► _____ Name (Type) Title (Type)

OFFICIAL OF THE APPLICANT LOCAL JURISDICTION

(Local policy-level general governmental official, e.g., city manager, mayor, administrator etc.)

I hereby affirm that the local jurisdiction, for which I am a governmental official, is aware of the pre-application.

► _____ Signature Date

► _____ Name (Type) Title (Type)

For JPA Projects Only

If pre-application is by a JPA applicant, provide the elected official of the second party.

OFFICIAL OF THE APPLICANT LOCAL JURISDICTION

(Local policy-level general governmental official, e.g., city manager, mayor, administrator etc.)

I hereby affirm that the local jurisdiction, for which I am a governmental official, is aware of the pre-application.

► _____ Signature Date

► _____ Name (Type) Title (Type)

**APPLICATION
FOR
CALIFORNIA LIBRARY CONSTRUCTION AND RENOVATION BOND ACT FUNDS**

APPENDIX 2 (To Section 20420 (c))

Administered by the California State Library: Gary E. Strong, California State Librarian

The application shall be received by the Bond Act Fiscal Officer, or that officer's designee, at the following location by 3 p.m. on February 15, 1991 or July 19, 1991.

California State Library
Library & Courts Building
Fiscal Services - Room 215
914 Capitol Mall
Sacramento, California 95814-4877

The applicant local jurisdiction pursuant to the Education Code, Title 1, Division 1, Part 11, Chapter 11, Sections 19950-19981 and Title 5, Division 2, Chapter 1, Sections 20410-20426 of the California Code of Regulations, hereby applies for a state matching grant for the construction or remodeling of the public library facility described herein:

PROJECT IDENTIFICATION

OFFICIAL NAME OF PROJECT: ► _____

TYPE OF APPLICANT: City: ☐ County: ☐ City/County: ☐ District: ☐

Joint Powers Agreement (JPA): ► _____
(If applicable — specify names of parties)

GRANT APPLICANT: ► _____
Legal name of jurisdiction that will own building

Elected Official: ► _____
Mayor, Chairperson of Board of Supervisors, Head of Special District, authorized to sign the application

Title: ► _____ Phone: ► _____

Address: ► _____

For JPA Projects Only

If application is by a JPA applicant, provide the elected official of the second party.

Elected Official: ► _____
Mayor, Chairperson of Board of Supervisors, Head of Special District, authorized to sign the application

Title: ► _____ Phone: ► _____

Address: ► _____

LIMIT COMMENTS THROUGHOUT THE ENTIRE FORM TO SPACE PROVIDED UNLESS OTHERWISE STATED. LIMIT TYPE SIZE TO NO SMALLER THAN 11 POINTS, AND 12 PITCH (ELITE) WITH NO MORE THAN 6 LINES PER INCH. ATTACHMENTS SHALL NOT BE ACCEPTED UNLESS REQUIRED BY REGULATION OR CALLED FOR ON THE APPLICATION FORM. CLEARLY LABEL ALL SUPPORTING DOCUMENTS SUBMITTED WITH THE APPLICATION WITH THE NAME OF THE APPLICANT AND PROJECT.

Project Coordinator: ► _____
Name of individual who will have administrative control over the project for the local jurisdiction

Title: ► _____ Phone: ► _____

Address: ► _____

Alternate Contact Person: ► _____
(If the project coordinator is unavailable, the contact person shall be authorized to act in the capacity of the project coordinator.)

Title: ► _____ Phone: ► _____

Address: ► _____

Head of Planning Department: ► _____
(If JPA, provide Head of Planning Department for jurisdiction providing the service. If applicable — Special Districts exempt)

Title: ► _____ Phone: ► _____

Address: ► _____

Head of Public Works Department: ► _____
(If applicable. If JPA, provide for jurisdiction providing the service.)

Title: ► _____ Phone: ► _____

Address: ► _____

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4 LIBRARY JURISDICTION: ► _____
5 Legal name of library that will operate the service in the building
6
7 Library Director Name: ► _____
8
9 Title: ► _____ Phone: ► _____
10
11 Address: ► _____
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13 _____
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15
16 Alternate Contact Person: ► _____
17
18 Title: ► _____ Phone: ► _____
19
20 Address: ► _____
21
22 _____
23
24
25 Library Building Consultant: ► _____
26 (If applicable)
27
28 Title: ► _____ Phone: ► _____
29
30 Address: ► _____
31
32 _____
33
34
35 Architect: ► _____ License #: ► _____
36 (providing construction budget estimate & conceptual plans)
37
38 Title: ► _____ Phone: ► _____
39
40 Address: ► _____
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42 _____
43
44
45 Interior Designer: ► _____
46 (If applicable)
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48 Title: ► _____ Phone: ► _____
49
50 Address: ► _____
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CHANGES IN PROJECT INFORMATION

Were there any changes in the proposed project information from that provided during the pre-application or a previous application?

Yes ☐ No ☐

If so, were changes made in any of the following?

Project Square Footage Yes ☐ No ☐

Standard Metropolitan Statistical Area (SMSA) Yes ☐ No ☐

Distance to Nearest Existing Public Library Yes ☐ No ☐

Square Miles in Project Service Area Yes ☐ No ☐

Library Project's Service Area 1990 Population Yes ☐ No ☐

Library Project's Service Area 2010 Population Yes ☐ No ☐

Age of existing public library building Yes ☐ No ☐

Date of most recent renovation or expansion of
existing public library building Yes ☐ No ☐

Electronic Information Delivery Units Yes ☐ No ☐

Meeting Room Space Yes ☐ No ☐

Project Budget Yes ☐ No ☐

Needs Assessment Yes ☐ No ☐

Changing Concepts in Library Service Yes ☐ No ☐

(This information will be utilized by the State Library to update the project database created from information previously provided during the pre-application or an earlier application.)

TYPE OF PUBLIC LIBRARY PROJECT & GROSS SQUARE FOOTAGE

TYPE OF PROJECT:

GROSS PROJECT SQUARE FOOTAGE

A) New Building

► _____ SF

B) Addition

► _____ SF

&

Remodeling

► _____ SF

Of Existing Library Bldg. for:

Energy Conservation Yes ☐ No ☐Disabled Access Yes ☐ No ☐Health & Safety Yes ☐ No ☐

C) Conversion

► _____ SF

(Acquisition of a Building to convert
into a public library building)

&

Remodeling

Of Building for:

Energy Conservation Yes ☐ No ☐Disabled Access Yes ☐ No ☐Health & Safety Yes ☐ No ☐

D) Remodeling of Existing Library Building for:

► _____ SF

Energy Conservation Yes ☐ No ☐Disabled Access Yes ☐ No ☐Health & Safety Yes ☐ No ☐

E) Remodeling for Shelving & Built-in Equipment:

► _____ SF

(For projects with this activity only)

MULTIPURPOSE PROJECTS:

Is the project also a multipurpose building?

Yes ☐ No ☐

Specify other uses of multipurpose building:► _____

CURRENT GROSS SQUARE FOOTAGE:

The current gross square footage of the existing public library(s) being replaced is:

► _____ SF

(If there is no existing facility, enter "0")

PROJECT PLANNING INFORMATION**LIBRARY FACILITIES MASTER PLAN:****STANDARD METROPOLITAN STATISTICAL AREA (SMSA):**

Is the proposed site for the project located in a Standard Metropolitan Statistical Area (SMSA)?

Yes ☐ No ☐

DISTANCE TO NEAREST EXISTING PUBLIC LIBRARY FACILITY:

(For purposes of this distance determination only, a "public library facility" means a building of 1,400 square feet or more providing direct public library service.)

Number of miles to the nearest existing public library facility other than the library facility(s) being replaced by the proposed project:

► _____ Miles

(Provide mileage to the nearest 1/10th of a mile by driving the distance in an automobile from the proposed site to the nearest public library facility, regardless of what jurisdiction the public library is located in.)

Name of Nearest Public Library Facility: ► _____

Square Footage of Nearest Public Library Facility: ► _____ SF

NUMBER OF SQUARE MILES IN THE PROJECT SERVICE AREA:

Number of square miles in the project service area: ► _____ SQ Miles

RELATIONSHIP OF PROJECT TO NEIGHBORING PUBLIC LIBRARY FACILITIES:

Describe how the proposed facility relates to neighboring existing and proposed public library facilities. If a facilities master plan exists, reference appropriate pages in the report to support statements:

If the applicant has completed or updated a jurisdiction-wide library facilities master plan within the last 5 years, the document shall be submitted with the application.

NEEDS ASSESSMENT FOR THE LIBRARY PROJECT:

LIBRARY PROJECT'S SERVICE AREA 1990 POPULATION: ► _____

LIBRARY PROJECT'S SERVICE AREA 2010 POPULATION: ► _____

AGE OF THE EXISTING PUBLIC LIBRARY:

When was the existing public library building, which will be replaced or improved by the proposed project, initially built?

► _____ Year

(If proposed project will replace more than one building, list the oldest of the buildings.)

(If there is no existing facility, enter "0")

CONDITION OF THE EXISTING PUBLIC LIBRARY:

When was the most recent structural renovation or expansion of the existing public library building?

► _____ Year

(If proposed project will replace more than one building, list the most recent activity for any of the buildings.)

(If there is no existing facility, enter "0")

PHYSICAL FACILITY LIMITATIONS

Provide statements of deficiencies of the existing public library facility(s) for the following:

(If more than one facility, complete this section for each facility separately, i.e., submit two copies of this section of the form.)

Structural:

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2 Electrical Power & Data Distribution:
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22 Lighting (natural & electrical):
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41 Mechanical (HVAC):
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Energy Conservation:

Health & Safety:

Disabled Access:

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14 Space Flexibility/Expandability:
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25 Functional Spatial Relationships:
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36 Site:
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47 Other/General:
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54 Engineering, Energy & Asbestos Studies:

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56 If the existing library facility will be remodeled, or if an existing building will be converted into a library building,
57 provide a copy of an engineering study and an asbestos survey with supporting cost figures. If the existing facility will
58 be remodeled for energy conservation, provide a copy of an energy audit with supporting cost figures.
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SERVICE LIMITATIONS:

Provide a statement of space deficiencies of the existing public library facility(s):

(If more than one facility, complete this section for each facility separately, i.e., submit two copies of this section of the form.)

Collections:

Readers' Seating:

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2 Staff Offices, Workstations & Supervision:
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20 Special Purpose Units:
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39 Meeting Room Seating:
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1 Types of Services for which space is lacking:
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26 Describe the degree to which citizens, community organizations and local agencies participated in the
27 determination of the need for a new/improved facility:
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51 If helpful in demonstrating the facility limitations, provide photographs or a video tape of the existing library
52 building(s) as support documentation. Label all photographs or video tapes with name of applicant and project.
53 This submittal is optional.
54

55 If the applicant has completed or updated a jurisdiction-wide or project specific library needs assessment within
56 the last 5 years, the document shall be submitted with the application.
57
58
59

LIBRARY BUILDING PROGRAM:

For new construction, conversion and addition/renovation projects, a final building program document shall be submitted with the application. The library building program shall meet the requirements shown in Appendix 3.

Demographics:

Briefly describe how the proposed library project will meet the needs of the service area population based on the existing and projected demographic characteristics, including, but not limited to factors such as age, race, ethnicity, education and socio-economic considerations:

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Changing Concepts in Public Library Service:

Describe how the proposed project will respond to changing concepts in public library service:

Building Components Allocation for the Proposed Library Project:

Provide a summary of the proposed project's holdings at capacity as reflected in the library building program, by providing the proposed allocations for the following library building components:

Collections

Number of Vols/Units

Books

Adult	▶	_____
Fiction	▶	_____
Non-Fiction	▶	_____
Reference	▶	_____
Special	▶	_____
Young Adult (if applicable)	▶	_____
Children	▶	_____
Easy/Picture	▶	_____
Juvenile	▶	_____
Fiction	▶	_____
Non-Fiction	▶	_____
Reference	▶	_____
Total Books	▶	_____

Audio-Visual

Video Tapes	▶	_____
Compact Discs	▶	_____
Audio Cassette Tapes	▶	_____
Phonodiscs	▶	_____
Talking Books	▶	_____
Computer Software	▶	_____
Other (slides, photographs, realia etc.)	▶	_____
Total Audio-Visual Materials	▶	_____

Periodicals Titles

Number of titles

Adult	▶	_____
Young Adult (if applicable)	▶	_____
Children	▶	_____

1			
2			
3			
4			
5	<u>Readers' Seating</u>		<i>Number of Seats</i>
6			
7	Adult Reference Services	▶	_____
8			
9	General Book Collection	▶	_____
10			
11	Browsing Services	▶	_____
12			
13	Young Adults (if applicable)	▶	_____
14			
15	Children's Services	▶	_____
16			
17	Periodicals Services	▶	_____
18			
19	Special Collections	▶	_____
20			
21	Other (Miscellaneous)	▶	_____
22			
23			
24			
25	<u>Staff Workstations:</u>	<i>Number of</i>	<i>Number of</i>
26		<i>Public Service</i>	<i>Off/Workroom</i>
27		<i>Workstations</i>	<i>Workstations</i>
28			
29	Circulation	▶	_____
30			
31	Adult Reference	▶	_____
32			
33	Children's	▶	_____
34			
35	Young Adult (if applicable)	▶	_____
36			
37	Special Collections	▶	_____
38			
39	Administration	▶	_____
40			
41	Technical Services	▶	_____
42			
43	Extension	▶	_____
44			
45	Custodial	▶	_____
46			
47	Other (Specify _____)	▶	_____
48			
49	Other (Specify _____)	▶	_____
50			

<u>Special Purpose Units</u>	<u>Number of Units</u>
(Provide for both staff and public use.)	
Computer Terminals	▶ _____
CD-ROM Readers	▶ _____
Microcomputers	▶ _____
Minicomputers	▶ _____
Computer Printers	▶ _____
Microform Readers and Reader/Printers	▶ _____
Microform Cabinets	▶ _____
Lateral/Vertical Files	▶ _____
Photocopy Machines	▶ _____
Facsimile Machines	▶ _____
AV Listening/Viewing Stations	▶ _____
Map Files	▶ _____
Atlas Cases	▶ _____
Card Catalog Units	▶ _____
Workstations for the Disabled (TDD* etc.)	▶ _____
Other (Specify: _____)	▶ _____
Other (Specify: _____)	▶ _____
* Telecommunication Device for the Deaf (TDD)	
Electronic Information Delivery Units: (Public use units only.)	
For the purposes of this section, "electronic information delivery units" means computer terminals, CD-ROM readers, microcomputers, computer printers, photocopy machines, facsimile machines, minicomputers, audio-visual listening or viewing units, microform readers and reader/printers, TDD units, downlink satellite dishes, and CATV monitor/tuners dedicated for the use of the public.	
Number of electronic information delivery units dedicated to public use to be housed in the proposed project, and specified in the project's building program and furnishings and equipment budget:	
	▶ _____ Units

Cable Television Production Capabilities

Describe the cable television production capabilities of the proposed project (uplink dish, cable channel, production studio etc.):

Meeting Space (Provide for staff and public use)

Number of Seats

Community Meeting Space	►	_____
Conference Space	►	_____
Quiet Study Space	►	_____
Literacy Training Space	►	_____
Staff Training Space	►	_____
Administrative Conference Space	►	_____
Children's Story Hour Space	►	_____
Multipurpose Space	►	_____
Theatres	►	_____
Other (Specify: _____)	►	_____
Other (Specify: _____)	►	_____
Other (Specify: _____)	►	_____

Meeting Space (Public use space only.)

For purposes of this section, "meeting space" means community meeting space, conference space, quiet study space, literacy training space, children's story hour space, theatres, and multipurpose space dedicated for the use of the public.

Number of square feet of meeting space dedicated to public use to be housed in the proposed project, and specified in the project's building program:

► _____ SQ. FT.

1 Service & Space Conversion Standards and Guidelines:

2 Provide information regarding any standards or guidelines utilized in the building program for the following. The use of
3 standards or guidelines is not mandatory, but if used, provide the conversion factors for the following:

4
5 Collections

6 Provide and cite the source for any standard or guideline used, such as units per capita , units per square foot, etc.:

7
8 Books

9
10
11
12
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14
15
16
17
18
19 Audio-visual

20
21
22
23
24
25
26 Periodicals

27
28
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32
33 Reader's Seats

34 Provide and cite the source for any standard or guideline used, such as reader's seats per capita or per 1,000 people, etc.:

35
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43
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45 Staff Workstations

46 Provide and cite the source for any standard or guideline used, such as number of staff or staff workstations per capita or per
47 1,000, etc.:

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Square Footage

If national (e.g. Wheeler & Goldhor or ALA 1962) or local quantitative space conversion standards were utilized to plan this project, specify the level and cite the source:

► _____ SF / Capita Source: ► _____

If the library facility is not being planned to provide at least .5 square foot per capita, explain why this is not necessary to meet the local service needs of the project's projected population:

If the proposed project's square footage becomes inadequate to effectively serve the population of the service area within twenty years, what is the current plan to meet the library facility needs of the service area?

Summary of the Library Facility Space Requirements:

Provide a summary of the spaces, collections, readers seats and square footage in the program:

(Attach additional pages if necessary.)

[illegible]

Net Assignable Sub-total: _____

Non-Assignable Space*: ▶

(Non-Assignable Square Footage is ► _____ % of the Gross Square Footage)

Total Facility Gross Square Footage: ►

*"Non-Assignable" means utility areas of a building required for the function of the building such as stairways, elevators, dedicated corridors and walkways, public lobbies, restrooms, duct shafts, mechanical rooms, electrical closets, janitor's closets, fireplaces, interior and exterior wall thickness, exterior amenities which are part of the building but not enclosed, such as patios, canopies, porches, covered walkways, etc.

1
2
3 SITE DATA:4
5 For new construction, conversion and addition/renovation projects, provide all of the following data for evaluation
6 of the proposed library site:
78
9 Ownership and Availability10
11 (Provide for remodeling projects as well.)
1213 Site14
15 Is the library site currently owned by the applicant?Yes ☐ No ☐16
17 Will the library site be owned by the applicant?Yes ☐ No ☐18
19 Is the library site currently leased by the applicant?Yes ☐ No ☐20
21 If the library site is leased, provide the name and address of the owner:
2223
24 Name: ► _____25
26 Address: ► _____
27
28 _____
29
30 _____
3132
33 If the library site is not already owned by the applicant:
34

35 (a) A legally executed option to purchase agreement for the site shall be submitted with the application; or

36
37 (b) A legally executed lease or lease-purchase agreement for the site shall be submitted with the application.38
39 (See Section 20414 (f))
4041
42 Building43
44 (For Conversion Projects Only)45
46 Is the building to be converted currently owned by the applicant?47
48
49 Yes ☐ No ☐
5051
52 If the building to be converted is not already owned by the applicant, a legally executed option to purchase agree-
53 ment for the building shall be submitted with the application (even if the building will be donated to the applicant).
54

1 Title Considerations

2
3 (Provide for remodeling projects as well.)4
5 Site6
7 Provide a preliminary title report for the proposed library site with the application (See Section 20424 (b)).8
9 Name of Title Company Officer: ► _____10
11 Name of Title Company: ► _____12
13 Address: ► _____14
15 _____16
17 Telephone: ► _____18
19 Are there any exceptions to marketable record title? Yes ☐ No ☐
20 (See Section 20424 (b))21
22 If so, the applicant shall provide legal counsel's written opinion regarding exceptions in the title report.23
24
25 Building26
27 (For Conversion Projects Only.)28
29 Provide a preliminary title report for the building to be converted into a library with the application.
30 (See Section 20424 (b))31
32 Name of Title Company Officer: ► _____33
34 Name of Title Company: ► _____35
36 Address: ► _____37
38 _____39
40 Telephone: ► _____41
42 Are there any exceptions to marketable record title? Yes ☐ No ☐
43 (See Section 20424 (b))44
45 If so, the applicant shall provide legal counsel's written opinion regarding exceptions in the title report.46
47 Boundary Survey48
49 (Provide for remodeling projects as well.)50
51 (For multipurpose projects, provide for the library portion of project only.)52
53 Provide a boundary survey showing the metes and bounds of the proposed library site upon which the proposed
54 library facility and site improvements are to reside. The survey shall be stamped and signed by a licensed land
surveyor.

1 Appraisal

2
3 (For multipurpose projects, provide for the library portion of project only.)
4

5 Site

6
7 What is/was the purchase price of the library site? ► \$ _____
8

9 (Provide the following only if appraisal is required.)
10

11 What is the appraised value of the library site? ► \$ _____
12

13 Name of appraiser who performed appraisal: ► _____
14

15 Telephone: ► _____
16

17 Credentials: ► _____
18

19 (Shall have MAI or SREA)

20 Enclose a copy of the appraisal for the property (See Section 20416 (d)).
21

22 Building

23
24 What is/was the purchase price of the building to be converted?
25

26 ► \$ _____
27

28 (Provide the following only if appraisal is required.)
29

30 What is the appraised value of the building? ► \$ _____
31

32 Name of appraiser who performed appraisal: ► _____
33

34 Telephone: ► _____
35

36 Credentials: ► _____
37

38 (Shall have MAI or SREA)

39 Enclose a copy of the appraisal for the property (See Section 20416 (d)).
40

41 Site Use Potential

42 Accessibility

43
44
45 Is the site strategically located in a geographically central part of the library service area? Yes ☐ No ☐

46 Is the site located in a retail commercial business district (either downtown or suburban)? Yes ☐ No ☐

47 Is the site generally accessible to all parts of the service area? Yes ☐ No ☐
48
49
50
51

Describe any natural or artificial barriers which may impede access to the site:

List the major arterial routes in the proximity of the site with traffic count (number of vehicles per day) information:

<i>Street Name</i>	<i>Number of Blocks from Site</i>	<i>Traffic Count</i>	<i>Count Date</i>
► _____	_____	_____	_____
► _____	_____	_____	_____
► _____	_____	_____	_____
► _____	_____	_____	_____

Is site located on a pedestrian circulation pattern? Yes ☐ No ☐

Can curb cuts be obtained to provide access to site? Yes ☐ No ☐

Is site located on or near a mass transit line? Yes ☐ No ☐

Number of mass transit lines stopping within 1/4 mile of site: ► _____

Library Parking

Number of spaces available off street, on site: ► _____ spaces

Number of spaces available off street, off site: ► _____ spaces
(within 500 feet of front door)

Number of spaces available on street: ► _____ spaces
(within 500 feet of front door)

TOTAL NUMBER OF SPACES AVAILABLE FOR PARKING: ► _____ spaces

Number of parking spaces required by zoning: ► _____ spaces

Calculate the number of parking spaces required, if 1.5 square foot of parking space is needed for every 1.0 square foot of library building (assume an average parking space equals 350 SF/space):

Building Gross SF x 1.5 divided by 350 = ► _____ spaces

If proposed project provides less parking than 1.5 SF of parking space to 1 SF of building space, provide justification of why the library needs less parking:

Site Description

Size

The total square footage of the library site should equal the square footage shown in 1 through 7 below:

(If the project is an addition to an existing library, complete this section for the entire site, i.e., the existing site plus any newly acquired land.)

(If the project is a multipurpose building, complete this section only for the library portion of the project.)

- | | | |
|---|---------|----|
| 1. PROPOSED LIBRARY BUILDING FOOTPRINT* | ► _____ | SF |
| 2. PROPOSED LIBRARY PARKING LOT | ► _____ | SF |
| 3. FUTURE LIBRARY EXPANSION OF BUILDING** | ► _____ | SF |
| 4. FUTURE LIBRARY EXPANSION OF PARKING** | ► _____ | SF |
| 5. REQUIRED LOCAL ZONING SET-BACKS | ► _____ | SF |
| 6. DESIRED AESTHETIC SET-BACKS & AMENITIES | ► _____ | SF |
| 7. MISCELLANEOUS & UNUSABLE SPACE | ► _____ | SF |
| TOTAL SQUARE FOOTAGE OF LIBRARY PROJECT SITE: | ► _____ | SF |

* "Footprint" means the square footage of surface area of the site that the building occupies.

** If expansion for the building or parking will not take additional space on the site, please explain method to be used:

Zoning

What is the current zoning classification of the site? ► _____

Will the site have to be rezoned to build the project? Yes ☐ No ☐

Will a variance be needed to build the project? Yes ☐ No ☐

If so, when can the variance be obtained? ► _____
(Date)

Solar Orientation

Will the orientation of the site and placement of the building on the site allow solar access from a westerly direction into the library building through windows or doors?

Yes ☐ No ☐

If yes, how will this problem be addressed:

Topography

Describe the general topography of the site. Is the site generally level or will it require extensive rough grading?
Provide estimates on the amount and cost of cut and fill that may be necessary:

Has a topographical survey been completed? Yes ☐ No ☐

Drainage

(Provide for remodeling projects as well.)

Is the site in the 100 Year Flood Plain? Yes ☐ No ☐

Do any water courses drain onto the site which require control? Yes ☐ No ☐

Do any water courses drain off the site which require control? Yes ☐ No ☐

Is the storm sewer system adequate to prevent localized flooding of the site during intense storms? Yes ☐ No ☐

1 California Environmental Quality (CEQA)

2
3 (See Public Resources Code, Sections 21000 – 21177 and California Code of Regulations, Title 14, Sections 15000 – 15387)

4
5 (Provide for remodeling projects as well.)

6
7 The applicant, as the lead agency, shall provide evidence that the necessary environmental impact documentation
8 (EID) as required by the provisions of CEQA has been fully completed:

9
10 1) If the applicant has determined that there is no possibility the project will result in an adverse environmental
11 impact, or that the project qualifies for a specific statutory or regulatory exemption, and therefore is not subject
12 to the provisions of the act, provide an explanation and appropriate citations:
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34 If an exemption is claimed for the project, provide a statement of the basis for the claim, and if completed, a
35 copy of the Notice of Exemption with the application.
36

37 2) If a negative declaration was adopted for the project, provide a final copy of the negative declaration, as well
38 as a conformed (stamped by the County Clerk) copy of the Notice of Determination which has been signed
39 by the lead agency and filed with the County Clerk with the application.
40

41 3) If the project was the subject of an Environmental Impact Report (EIR), provide a final copy of the EIR and
42 a conformed (stamped by the County Clerk) copy of the Notice of Determination which has been signed by
43 the lead agency and filed with the County Clerk with the application.
44

45 Before adopting a Negative Declaration, or a final Environmental Impact Report, the applicant shall submit the
46 draft environmental documents to the:

47
48 State Clearinghouse
49 Office of Planning and Research
50 1400 10th Street
51 Sacramento, California 95814
52

53 The applicant shall take into consideration timely comments made by state agencies on the project before adopting
54 final environmental documents and approving the project. The applicant shall provide either the compliance letter
55 or the comments from state agencies provided by the State Clearinghouse with the application. After project
56 approval, a Notice of Determination shall be filed with the County Clerk before it is submitted with the
application.

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3 Summarize the potential significant adverse effects to the environment of the proposed project and any
4 measures that have been adopted to mitigate or reduce these effects:
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31 Are there any unresolved legal actions pending against the project regarding CEQA compliance? If so,
32 provide the case name, court number and a brief explanation:
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Historic districts

(Provide for remodeling projects as well.)

Was the existing library building, if it is being renovated or expanded as part of the project, or any buildings on adjacent properties, built prior to 1941?

Yes ☐ No ☐

Is the existing library building, or any buildings on adjacent properties:

On the National Register of Historic Places?

Yes ☐ No ☐

A National Historic Landmark?

Yes ☐ No ☐

A National Monument?

Yes ☐ No ☐

On County or Municipal Historic Designation list?

Yes ☐ No ☐

Is there a local historic preservation ordinance that applies to the proposed project site or any adjacent properties?

Yes ☐ No ☐

If yes, briefly specify any applicable requirements or restrictions, such as height limits etc.:

If yes, is the proposed project conceptual design substantially in compliance with the local historic preservation ordinance?

Yes ☐ No ☐

1
2
3 Geotechnical Report
4

5 Identify and summarize any special geologic conditions, including, but not limited to, compressible and
6 expansive soils, tunnels and mine shafts, unstable slopes, active seismic zones, excessive ground water and
7 areas prone to liquefaction. Indicate if these conditions will prevent the use, or significantly increase the
8 cost of developing the site for a public library building:
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30 Provide a copy of the geotechnical report performed by a licensed engineer with the application.
31

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33 Demolition costs
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35 Describe any demolition costs involved with the site:
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Utilities

Describe utilities availability and associated costs if any utilities are not currently located within 100 feet of a property line of the site:

(All off-site costs beyond 100 foot utility tie-ins are local ineligible expenses, but shall be identified and included in the budget estimate under ineligible site development costs.)

Utility	Availability	Cost to Bring Service to Site
Electricity	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Telephone	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Gas	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Cable TV	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Storm Sewer	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Sanitary Sewer	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____
Water	Yes <input type="checkbox"/> No <input type="checkbox"/>	► \$ _____

Site Development CostsEligibleIneligible

Utilities	► \$ _____	► \$ _____
Cut, Fill & Rough Grading	► \$ _____	► \$ _____
Special Foundation Support	► \$ _____	► \$ _____
(pilings etc.)		
Paving, curbs, gutters & sidewalks	► \$ _____	► \$ _____
Retaining Walls	► \$ _____	► \$ _____
Landscaping	► \$ _____	► \$ _____
Signage	► \$ _____	► \$ _____
Lighting	► \$ _____	► \$ _____
Removal of underground tanks	► \$ _____	► \$ _____
Removal of toxic materials	► \$ _____	► \$ _____
Rock removal	► \$ _____	► \$ _____
Other (Specify)		
► _____	► \$ _____	► \$ _____
► _____	► \$ _____	► \$ _____
TOTAL SITE DEVELOPMENT COSTS:	► \$ _____	► \$ _____

Mitigating Circumstances:

If there are problems with the proposed site, what mitigating circumstances lessen the negative impact? Describe the proposed design solutions which moderate the site's drawbacks. Provide information on alternative sites considered, and why the proposed site is the best location for a public library in the service area:

Visual Record:

Provide photographs and/or a video tape of the site and surrounding area. Show several views of the site and a 360 degree perspective around the site of the surrounding buildings. Label all photographs and video tapes with the name of the applicant and project.

Maps:

Provide a map showing the location of the proposed library site in the community. This map (or another with a larger scale) shall show the service area of the proposed project, and if possible, the nearest existing library (other than the one being replaced).

PROJECT TIMETABLE

Provide the timetable for the proposed project. Show estimated dates of completion, as well as actual dates of completion:

TIMETABLE

DATE

Site Purchase/Lease Agreement Executed	►	_____
Schematic Plans & Cost Estimate	►	_____
Design Development Plans & Cost Estimate	►	_____
Working Drawings & Final Cost Estimate	►	_____
Start of Construction	►	_____
Completion of Construction	►	_____

Calculate the number of months from the month of application until the estimated start of construction:

► _____ Months

Calculate the number of months for the construction of the project from start to finish:

► _____ Months

CONCEPTUAL ARCHITECTURAL PLANS

New construction, conversions and addition/renovations:

For new construction, conversion and addition/renovation projects, a set of conceptual plans (no less than 22 x 34 inches for paper size) prepared by an architect licensed to practice in the State of California shall be submitted with the application. Multipurpose projects shall submit the required conceptual plans for both the total multipurpose project, as well as the library portion of the project.

The conceptual plans shall consist of the following:

- (a) An area plan showing the library site in context with the surrounding neighborhood buildings, parking and streets.
- (b) A site plan showing the library building, parking lot and access roads, as well as any anticipated future expansion of the building and parking lot. The site plan shall also indicate the direction of north.
- (c) A floor plan (single line) showing, and identifying by name on the plan, the major programmed areas for the library. Each area shall show the square footage called for in the library building program and the actual square footage allocated on the plan.
- (d) Two sections through the building, one longitudinal and one latitudinal.
- (e) Two elevations, with one elevation being the front of the library building.
- (f) Outline specifications describing the type of construction by identifying the basic building components (structural, mechanical etc.), and the type of occupancy. The architect shall reference any applicable Sections of State Statutes and State Building Codes.
- (g) For the remodeling portion of the project, a floor plan which identifies the extent and limits of the remodeling.
- (h) For projects which involve rehabilitation for health and safety purposes, the architect shall cite the specific Sections of State Statutes, State Building Codes or local codes which demonstrate that the existing building is in need of rehabilitation for health and safety purposes. If local codes are cited, provide a copy of any cited sections of the local code.

Remodeling of existing libraries only:

For projects which involve remodeling of existing libraries exclusively, only outline specifications with a floor plan which identifies the extent and limits of remodeling shall be submitted with the application. If the remodeling project involves rehabilitation for health and safety purposes, the architect shall cite the specific Sections of State Statutes, State Building Standards Codes or local codes which demonstrate that the existing library building is in need of rehabilitation for health and safety purposes. Provide a copy of any sections of the local code which have been cited.

FINANCIAL INFORMATION

Normal Construction Costs in the Applicant's Area:

(See Section 20418 (c))

(For projects with new construction only.)

In order to justify the eligible projected construction cost estimate for new construction, the following information is required:

The current (1990) cost of public library buildings figure of \$115.20 per square foot multiplied by the following locality adjustment factor:

1) County: _____ Multiplier Factor: _____

2) Locally Adjusted Cost Per Square Foot (\$/SF): _____ / SF
(\$115.20 x Multiplier Factor)

This figure is increased by 1/3 percent for every month from the State Librarian's deadline for application until the anticipated bid date which provides the eligible projected construction cost per square foot estimate.

3) Number of Months: _____ x .33 = _____ % Inflation Factor

4) Locally Adjusted \$/SF x Inflation Factor % = _____ / SF

The locally adjusted cost per square foot figure added to the inflation factor cost per square foot figure (line 2 plus line 4) equals the normal public construction cost in the applicant's area:

5) Eligible projected construction \$/SF: _____ / SF

The eligible projected construction cost is calculated by multiplying the eligible projected construction cost per square foot figure times the square footage of new construction:

Eligible projected construction \$/SF: _____ / SF
(re-enter line 5)

x

The Square Footage of New Construction: _____ SF

Equals:

6) The eligible projected construction cost: _____

If the projected construction cost estimated by the project architect is lower than the figure in line 6, the applicant shall use the lower figure as the normal public construction cost in the applicant's area.

If the optional modification below is not utilized, the eligible projected construction cost may be increased by fifteen percent to allow for a contingency at this point:

Eligible Contingency: _____
(15% of line 6)

Optional modification:

The applicant may, at its option, employ a local cost comparison approach to increase the eligible projected construction cost figure. List a minimum of three comparable public construction projects which have been bid within two years of the State Librarian's deadline for application:

	<i>Project</i>	<i>Date Bid</i>	<i>Contract Cost/SF</i>
A) ▶	_____	_____	▶ \$ _____ / SF
B) ▶	_____	_____	▶ \$ _____ / SF
C) ▶	_____	_____	▶ \$ _____ / SF
D) ▶	_____	_____	▶ \$ _____ / SF
E) ▶	_____	_____	▶ \$ _____ / SF
F) ▶	_____	_____	▶ \$ _____ / SF

Comparable public construction projects are post offices, museums, courthouses, city halls, auditoriums, community college and public libraries, senior citizens centers, public schools and recreation centers.

The costs per square foot of the above recently bid comparable projects are averaged to obtain the:

7) Locally Determined Comparable \$/SF: ▶ \$ _____ / SF
(average of A through F)

The average of this locally determined comparable cost per square foot figure (line 7) and the eligible projected construction cost per square foot figure (line 5) equals the revised eligible projected construction cost per square foot:

Locally Determined Comparable \$/SF: (reenter line 7)	▶ \$ _____ / SF
Plus	
Eligible Projected Construction \$/SF: (reenter line 5)	▶ \$ _____ / SF
Divided by 2, Equals	

8) Revised Eligible Projected Construction \$/SF: ▶ \$ _____ / SF

The revised eligible projected construction cost is calculated by multiplying the eligible projected construction cost per square foot figure times the square footage of new construction:

Revised eligible projected construction \$/SF: (reenter line 8)	▶ \$ _____ / SF
x	
The Square Footage of New Construction:	▶ _____ SF
Equals:	

9) The revised eligible projected construction cost: ▶ \$ _____

The revised eligible projected construction cost may be increased by fifteen percent to allow for a contingency:

Eligible Contingency: (15% of line 9)	▶ \$ _____
--	------------

Detailed Projected Construction Cost Estimate

For new construction, the architect shall provide the applicant, and the applicant shall submit with the application, a conceptual phase estimate of the projected construction costs for the proposed project. The estimate shall be organized using either A. or B. as follows, or a similar estimating format. The footnoted citations below are provided only as a reference. Applicants are not required to use the external documents footnoted by asterisks in order to comply with the cost estimate requirements.

A.*	General Requirements	Finishes
	Site Work	Specialties
	Concrete	Equipment
	Masonry	Furnishings
	Metals	Special Conditions
	Wood and Plastics	Conveying Systems
	Thermal and Moisture Protection	Mechanical
	Doors and Windows	Electrical
B.**	Foundations	Conveying
	Substructures	Mechanical
	Superstructures	Electrical
	Exterior Closure	General Conditions
	Roofing	Special
	Interior Construction	Site Work

* Construction Specifications Institute (C.S.I.) Masterformat Divisions

** R.S. Means Assemblies Cost Data Manual

For remodeling work, the architect shall provide the applicant, and the applicant shall submit with the application, a conceptual plans estimate of the projected construction costs for the proposed project. The estimate shall be organized by the three types of eligible project expenditures for remodeling work:

- A. Energy Conservation
- B. Access for the Disabled
- C. Compliance with Current Health and Safety Requirements for Public Facilities

For remodeling work, the architect shall also provide a lump sum estimate for the remaining "general" remodeling work included in the project.

Multipurpose Cost Comparison:

(For multipurpose projects only.)

The architect shall provide the applicant, and the applicant shall submit with the application, a cost analysis comparing the budget of the multipurpose project as a whole with the budget of the library portion of the project, using the same formats as above.

Library Project Budget

(Provide for all projects. Provide for library portion only of multipurpose projects.)

<i>LIBRARY PROJECT COSTS</i>	<i>ELIGIBLE</i>	<i>INELIGIBLE</i>
1) Purchase Price or Appraised Value of Building	▶ \$ _____	N/A
Construction Contract for:		
2) New Construction (Including additions)	▶ \$ _____	▶ \$ _____
Remodeling for:		
3) Energy Conservation	▶ \$ _____	N/A
4) Disabled Access	▶ \$ _____	N/A
5) Health & Safety	▶ \$ _____	N/A
6) General (Other)	N/A	▶ \$ _____
7) Contingency	▶ \$ _____	▶ \$ _____
8) Site Development Costs	▶ \$ _____	▶ \$ _____
9) Site Demolition Costs	▶ \$ _____	N/A
10) Fastened Shelving & Built-in Equipment	▶ \$ _____	N/A
11) Works of Art	▶ \$ _____	▶ \$ _____
12) Furnishings	▶ \$ _____	▶ \$ _____
13) Movable Equipment	N/A	▶ \$ _____
14) Geotechnical Reports	▶ \$ _____	N/A
15) Architectural & Engineering Fees	▶ \$ _____	▶ \$ _____
16) Construction Cost Estimator Fees	▶ \$ _____	N/A
17) Asbestos Consultant Fees	▶ \$ _____	N/A
18) Library Consultant Fees	▶ \$ _____	N/A
19) Interior Designer Fees	▶ \$ _____	N/A
20) Local Project Administration Costs	N/A	▶ \$ _____
21) Other (Specify _____) ...	▶ \$ _____	▶ \$ _____
22) Other (Specify _____) ..	▶ \$ _____	▶ \$ _____

	<i>ELIGIBLE</i>	<i>INELIGIBLE</i>
23) Subtotal \$ ▶ \$ _____ (Add lines 1 through 22)		N/A
24) State Project Administration Fee ▶ \$ _____ (1/2% of line 23 eligible costs)		N/A
25) Purchase Price of Land ▶ \$ _____		N/A
26) Appraised Value of Land ▶ \$ _____ (No lease or lease-purchase)		N/A
27) Credit for Architectural & Engineering (A & E) Fees ▶ \$ _____ (Paid for prior to 2/15/88 for 1st funding cycle, and prior to 7/19/88 for 2nd funding cycle)		N/A
28) TOTAL COSTS: ▶ \$ _____		▶ \$ _____
SOURCES OF PROJECT INCOME:		
29) State Matching Funds ▶ \$ _____ (65% of line 28 eligible costs)		N/A
30) Local Matching Funds ▶ \$ _____ (35% of line 28 eligible costs)		N/A
31) City ▶ \$ _____		
32) County ▶ \$ _____		
33) Special District ▶ \$ _____		
34) Private ▶ \$ _____		
35) Other (Specify: _____) ▶ \$ _____		
36) Local Credits (Land, A&E Fees and Furnishings) ▶ \$ _____ (Enter total of figures on lines 25 through 27 and only furnishings from line 12 which have already been acquired prior to the State Librarian's deadline for application) (No credit for land which will be acquired) (The addition of lines 31 through 36 must equal line 30)		
37) Adjusted Local Match ▶ \$ _____ (Line 30 minus line 36)		
38) Supplemental Local Funds ▶ \$ _____ (The same as line 28 ineligible)		
39) TOTAL PROJECT INCOME: ▶ \$ _____ (Add lines 29, 30 and 38)		

1 Local Funding Commitment:

2
3 Provide the necessary resolution by the governing body of the applicant required to support the application.
4 (See Section 20416 (a))
5
6
7

8 **SIGNATURES**
9

10
11 The parties below attest to and certify the accuracy and truthfulness of the application for California Library
12 Construction and Renovation Bond Act funds. If the application is successful, the application agrees to execute
13 the project on the basis of the application data provided herein.
14

15 **LIBRARY DIRECTOR**
16

17 I hereby affirm that the library jurisdiction, for which I am the administrative agent, approves of the application
18 and will operate the facility as a library after its completion.
19

20
21 ► _____ ► _____
22 Signature Date
23
24 ► _____ ► _____
25 Name (Type) Title (Type)
26
27

28 **HEAD OF PLANNING DEPARTMENT**

29 (If applicable – Special Districts exempt)

30 I hereby certify the accuracy of the 1990 and 2010 population figures contained in the application for the
31 jurisdiction which I represent.
32

33
34 ► _____ ► _____
35 Signature Date
36
37 ► _____ ► _____
38 Name (Type) Title (Type)
39
40

41 **ELECTED OFFICIAL**
42

43 Signature of Mayor, Chairperson of Board of Supervisors, or Head of District, authorized to make application
44 for the local jurisdiction
45

46
47 ► _____ ► _____
48 Signature Date
49
50 ► _____ ► _____
51 Name (Type) Title (Type)
52
53
54
55

1 JPA projects only.

2
3 (If application is by a JPA applicant, provide the elected official and head of planning of the second party.)

4
5 ELECTED OFFICIAL

6
7 Signature of Mayor, Chairperson of Board of Supervisors, or Head of District, authorized to make
8 application for the local jurisdiction

9
10
11 ► _____ ► _____
12 Signature Date

13
14 ► _____ ► _____
15 Name (Type) Title (Type)

16
17
18
19
20 HEAD OF PLANNING DEPARTMENT

21 (If applicable – Special Districts exempt)

22 I hereby certify the accuracy of the 1990 and 2010 population figures contained in the application for the
23 jurisdiction which I represent.

24
25
26 ► _____ ► _____
27 Signature Date

28
29 ► _____ ► _____
30 Name (Type) Title (Type)

OUTLINE
OF
REQUIREMENTS FOR A LIBRARY BUILDING PROGRAM:
APPENDIX 3

(To Section 20410 (k) & Section 20420 (c) via application form)

Table of Contents

Overview and Introduction

Provide a general introduction to the project with an overview of the need for the project along with a time schedule for the project. Discuss the relationship of the library building program to the architectural design process, as well as the roles of the library building team members.

Community Analysis

Provide an in-depth understanding of the particular community by describing and analyzing all relevant factors which will have an effect upon the library's roles and plan of service.

Governmental Agencies

Identify all governmental agencies which will have an influence on the planning of the new facility and describe the nature of the relationship. Identify key individuals and define their roles in the project.

Location

Provide general information locating the projected within the library service area and local jurisdiction. An area map showing the location of the proposed project site shall be included, if a site has been identified. Further site analysis is optional.

Demography

Provide information about the size, projected growth and demographic characteristics of the population within the library service area. This information shall include, but not be limited to, the composition of the population by age, race, ethnicity, education and other socio-economic factors. This information shall be analyzed and compared to the norm of larger populations such as the special district, city, county, state and nation. This data shall be used in developing the library's plan of service to its community.

Library Institutional Analysis

Describe the mission of the public library and the library plan of service providing any information which will be necessary to determine the allocation of space for the proposed library building in terms of collections, reader's seats, staff workstations, special purpose units and meeting room space.

History of the Library

Provide a brief history of the development of the library.

Library Plan of Service

Define any applicable roles of the proposed public library and describe any specific goals and objectives for library service to the community. Provide a detailed analysis of the types of services to be offered as well as how the plan will be implemented in the proposed facility. Provide any applicable use statistics, service standards or guidelines. Provide a citation and brief description if there is a jurisdiction-wide plan of service that has been officially adopted. Provide a citation and summary analysis if there is a user survey to support the library's plan of service.

Library Collections

Describe the current status of the library collections and project the capacity of future holdings for the proposed facility. Discuss collection development and provide justification for the size and types of collections based on demographics, previous as well as anticipated purchasing patterns, verifiable library use statistics, and any applicable standards or guidelines. Provide a summary of all project collections to be housed in the library, as well as the conversation factors used to calculate the required shelving units to store the holdings.

1
2
3
4
5 Readers' Seats
6

7 Describe the number, type and allocation of the patron seating needed to meet the requirements of the
8 proposed facility. Identify any standards utilized in determining the amount of seating as well as any
9 applicable conversion factors use to calculate the square footage needed to house the various types of
10 seating.
11

12 Special Purpose Units/Spaces
13

14 Identify and describe the various kinds of special purpose units (CD-ROM readers, microform readers,
15 photocopy machines etc.) which will be required in order to support the operation of the proposed facility.
16 Describe the significance of this equipment in meeting the challenge of changing concepts in public library
17 service. Provide an allocation of the units as well as any applicable conversion factors used to calculate the
18 square footage needed to house the special purpose units.
19

20 Staff Workstations
21

22 Describe the projected staff organization and provide any applicable standards used in determining the size
23 of the projected staff. Provide the resulting number of staff workstations (public, office and workroom)
24 needed to provide the desired service level in the proposed facility, and indicate the proposed allocation of
25 staff workstations. Provide conversion factors used to calculate the square footage needed to house the
26 various types of staff workstations.
27

28 Meeting Room Requirements
29

30 Describe the number and capacity of meeting rooms for the proposed library. Indicate how this space
31 supports the library's plan of service and provide an allocation of the space. Provide conversion factors used
32 to calculate the square footage needed for the various types of meeting room seats.
33

34 Facility Space Analysis
35

36 Summary of Facility Space Requirements
37

38 Provide a summary page(s) of the various spaces in the proposed library showing the name of the spaces
39 with the respective square footage, collections and reader's seats required.
40

41 Spatial Relationships
42

43 Describe the relationships of the various spaces in the proposed library either through the use of narrative,
44 a spatial diagram or a matrix.
45

46 Space Descriptions
47

48 Provide a description of each individual space as well as a general narrative for the whole library which
49 addresses, as appropriate, the following items:
50

51 Square footage, occupancy by staff and patrons, type and size of collections, functional activity
52 description, spatial relationships, flexibility, expandability, staff efficiency, energy efficiency,
53 fenestration, space finishes, building materials, access for the disabled, acoustics, environmental
54 conditions (HVAC), electrical power supply, illumination, communications, computer applications,
55 security systems, signs, audio-visual aspects, visual supervision and layout of furniture and equipment.
56

57
58 Financial Analysis
59

60 Provide a preliminary capital outlay project budget for the proposed facility with cost justifications.
61
62

Chapter 3. California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000

Article 1. General Provisions

§ 20430. Definitions.

- (a) Addition — a project that increases the floor area of enclosed space of an existing building. "Addition" also means "expansion."
- (b) Addition/remodeling — a project that combines remodeling with an addition to an existing building.
- (c) Administrative costs of the project [Education Code section 19990] — administrative costs include costs of any services provided by employees of the applicant jurisdiction or its library service provider, excluding professional services as described in section 20432(e) and (f) where such services are required by the applicant jurisdiction to be provided by a Public Works or similar department, or by other departments providing the professional services, and where the costs are directly billed to the construction project.
- (d) Applicant — a local jurisdiction as defined under Education Code section 19988 that is eligible for a grant and that is in the process of making application for California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 funds.
- (e) Application Form — the form entitled "Application Form: California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 Funds" found in section 20440, Appendix 1.
- (f) Appraised value — the value of land, an existing building, or any other improvements as determined by an independent certified appraiser no more than one year prior to the date of the Board's deadline for application. [See section 20436(a) for appraisal requirements.]
- (g) Architect — an architect holding a valid license under California Business and Professions Code, Chapter 3, Division 3, commencing with section 5500.
- (h) Assignable square footage — the usable space within the building assigned to furniture and equipment, excluding any non-assignable space.
- (i) Board — California Public Library Construction and Renovation Board.
- (j) Bond Act — the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 (Education Code sections 19985–20011).
- (k) Co-located library — a library that houses a combined public library and public school library in a single facility, either on or off of school grounds. Library services provided in the facility shall be defined by a cooperative agreement between the public library jurisdiction that will operate the library and one or more public school districts serving any combination of K–12 students. The terms "co-location project" and "co-located library" are used synonymously. If portions of a co-located project are not devoted to the delivery and support of public library direct service, the project shall be considered, in addition, a multipurpose project.
- (l) Common areas of a multipurpose building — areas of a multi-occupant building that are shared by its occupants.
- (m) Community Library Needs Assessment — a written evaluation of the library service needs of an identified public library service area containing the elements specified in section 20440, Appendix 3.
- (n) Completion of the public library project — For the purposes of Bond Act grant projects, the public library project shall be considered complete at Substantial Completion.
- (o) Construction manager — an individual who has had responsibility for construction management for five or more construction projects in excess of \$1,000,000 each, within the 10 years prior to the Board's application deadline.
- (p) Conversion — remodeling an existing building that is not currently used for public library purposes to make it a public library.
- (q) Construction cost estimator — an individual who has had responsibility for five or more construction project cost estimates in excess of \$1,000,000 each, within the 10 years prior to the Board's application deadline.
- (r) Cooperative agreement — a written legal agreement containing the elements specified in section 20440, Appendix 2.
- (s) DSA — Division of the State Architect, Department of General Services, State of California.
- (t) Electronic technologies — any electronic device or network that processes or provides access to data or information.
- (u) Eligible project costs — reimbursable costs authorized in Education Code sections 19989 and 19995(b) as made specific in these regulations.
- (v) Eligible projected construction cost:
- (1) For new construction — construction contract costs for a public library or joint use library facility derived by calculating the normal public construction costs in the applicant's area as specified in section 20436(c).
 - (2) For conversion, remodeling, and addition/remodeling — construction costs related to all aspects of remodeling, rehabilitating, or renovating an existing public library facility owned by the applicant; or construction costs related to the conversion of a building into a public library, as specified in section 20436(d).
- (w) Engineer — an engineer holding a valid license under California Business and Professions Code, Chapter 7, Division 3, commencing with section 6700, in that branch of engineering that is applicable.
- (x) Existing public library — a facility operated to provide public library direct service, either owned or leased, if the lease has a total duration of not less than 20 years.
- (y) Existing public school library — a facility operated to provide library service to students in a public school, either owned or leased, if the lease has a total duration of not less than 20 years.
- (z) Fenestration — the arrangement, proportioning, and design of exterior and interior windows, clerestories, skylights, window walls, and doors in a building.
- (aa) Field Act — Education Code sections 17281, 17365, and 81130.
- (bb) Gross square footage — the entire area of the building interior including the exterior wall thickness. The total of the assignable square footage and the non-assignable square footage equals the gross square footage. Whenever the terms or abbreviations "square footage," "square feet," "SQ FT," or "SF" are used in the Bond Act regulations or appendices without the modifiers "assignable" or "non-assignable," then the terms or abbreviations mean "gross square footage" or "gross square feet."
- (cc) Inadequate infrastructure — incoming telecommunication connection to a public school building equal to or less than 512 thousand bits per second (512K bps).
- (dd) Joint use project — a public library project that is either a co-located library or a joint venture project.
- (ee) Joint venture project — a project to construct a public library facility that jointly serves both public library users and any combination of K–12 students as defined by a cooperative agreement between a public library jurisdiction and one or more public school districts. Joint venture library services are defined in section 20434(a)(1)(B).
- (ff) K–12 — kindergarten through grade 12.
- (gg) Library building program — the planning document that describes the space requirements and all other general building considerations required for the design of a public library building, as specified in section 20440, Appendix 5.
- (hh) Library consultant — a qualified library consultant who meets all of the following criteria:

(1) Possesses a Master of Library Science or equivalent 5th year degree in library science.

(2) Has been a consultant for at least five different library projects within the last 10 years for the development of at least one of the following:

- (A) Library needs assessment.
- (B) Library plan of service.
- (C) Library facility master plan.
- (D) Library site study.
- (E) Library building program.
- (F) Library architectural plans review.

(3) Has provided the services in (2) above as an independent contractor or as the employee of an organization involved with the administration of public libraries.

(ii) Library facilities master plan — a jurisdiction-wide plan detailing the anticipated need for new and/or remodeled public library facilities for a specified period of time.

(jj) Local matching funds — 35% of the total eligible project costs submitted in the Library Project Budget in the Application Form, which the applicant is responsible for obtaining from sources other than the Bond Act.

(kk) Mid-point of construction — the calendar date that falls half-way between the start of construction and Substantial Completion of the project.

(ll) Multipurpose building — a multi-occupant facility, part of which is a public library and part of which is used for other purposes. [See also the definition (k), Co-located library].

(mm) New construction — new building square footage for one or more of the following:

- (1) A totally new library building.
- (2) An addition to an existing public library building owned by the applicant.
- (3) An addition to an existing building that is being converted to a public library building.

(nn) New public library — any of the following:

- (1) The construction of a new public library building.
- (2) The acquisition of a building that is not currently a public library and remodeling it to become a public library.
- (3) A replacement facility for an existing public library, whether on the same site or a new site.

(oo) Non-assignable space — utility areas of a building required for the function of the building, including stairways; elevators; corridors and interior walkways; public lobbies; restrooms; duct shafts; mechanical rooms; electrical closets; telecommunications closets for voice, data, electrical, security, and fire systems; janitor's closets; fireplaces; interior and exterior wall thickness; and exterior amenities that are part of the building but not enclosed, such as loading docks and covered patios, porches, and walkways.

(pp) Project — a remodeling, remodeling with addition, or new construction project for purposes authorized under Education Code section 19989.

(qq) Project manager — an individual who has had responsibility for project management of five or more construction projects in excess of \$1,000,000 each, within the 10 years prior to the Board's application deadline.

(rr) Projected construction cost — the construction cost of the library project as estimated by an architect, engineer, or construction cost estimator.

(ss) Public library portion of a building or site — the portion of the building or site dedicated to the delivery and support of public library direct services plus the pro rata share of common areas attributable to the delivery and support of public library direct services.

(tt) Readers' seats — all seating in the library available for the public of all ages to use while reading print materials (i.e., lounge seating,

benches, floor cushions, seating at tables, carrels, and study counters). Readers' seats do not include technology workstations.

(uu) Remodeling — any form of renovation or rehabilitation of an existing facility. The following terms are used synonymously: remodeling, renovation, and rehabilitation.

(vv) State matching funds — 65% of the total eligible project costs submitted in the Library Project Budget in the Application Form.

(ww) Substantial Completion — the date on which the owner and contractor agree that the construction contract is sufficiently complete to permit the owner to take possession of the facility.

(xx) Supplemental funds — local funds required to cover ineligible project costs that are directly related to the construction project.

(yy) Technology workstations — workstations in the library (e.g. tables, carrels, counters, office systems) available for the public of all ages to use while operating any kind of library-provided electronic or audiovisual technology (i.e., personal computers, computer terminals, on-line public access computers (OPAC), audio and video units, ADA adaptive technology, and microform readers).

NOTE: Authority cited: Section 19992, Education Code. Reference: Sections 19989, 19994, 19995 and 19996, Education Code.

HISTORY

1. New chapter 3 (articles 1–2, sections 20430–20444), article 1 (section 20430) and section filed 12–5–2001; operative 1–4–2002 (Register 2001, No. 49).

Article 2. California Library Construction and Renovation Program

§ 20432. Purposes of Grants.

(a) Acquisition of an existing or prefabricated building

A local jurisdiction may acquire, through purchase or donation, an existing building or a prefabricated building for the purpose of converting it to a public library.

(b) Multipurpose building

A local jurisdiction may acquire space in a multipurpose building for use as a public library.

(c) Allowable site use

A local jurisdiction may build a public library facility on land that has been:

- (1) Purchased.
- (2) Donated.
- (3) Leased.
- (4) Secured by a lease-purchase agreement.

(d) Site development and demolition costs

Site development and demolition costs are eligible if they are:

- (1) Necessary and directly related to the construction of the public library.
- (2) Within the legal boundaries of the public library project site.
- (3) No more than 100 feet beyond the legal boundaries of the site and are required to tie-in the public library site with existing utilities and roads. Such work shall be limited to:

- (A) Utilities.
- (B) Paving.
- (C) Sidewalks, curbs, and gutters.
- (D) Landscaping and irrigation.
- (E) Traffic signals.

(e) Architectural and engineering services

(1) Payment of fees for any work related to the public library construction project performed by architects and engineers are eligible project costs provided they are cash expenditures made not earlier than three years prior to the submission of the grant application, as specified in Education Code section 19995(b).

(2) Matching funds credit for architectural plans and drawings.

(A) The cost of architectural plans and drawings developed solely for the public library project for which the application is being made, regard-

less of when their cost was incurred, may be credited toward the matching funds requirement.

(B) "Architectural plans and drawings" means, and is limited to, the following documents created by an architect or engineer that are necessary for the design of the proposed public library building:

1. Conceptual plans and drawings.
2. Schematic plans and drawings.
3. Design development plans and drawings (also referred to as preliminary plans and drawings).
4. Construction documents and specifications (also referred to as final working drawings and specifications).

(f) Other professionals

Fees for work related to the public library construction project performed by the following professionals are eligible project costs:

- (1) Americans with Disabilities Act (ADA) consultants
- (2) Attorneys
- (3) Audio-visual consultants
- (4) Building security systems consultants
- (5) Certified Public Accountants
- (6) Construction managers
- (7) Hazardous materials consultants — Registered Environmental Assessors registered by the California Environmental Protection Agency, Office of Environmental Health Hazard Assessment, and asbestos consultants registered by the California Occupational Safety and Health Administration, who are employed to perform hazardous materials surveys and related abatement contract administration.

(8) Historical consultants required to assess the historical significance of an existing building.

(9) Interior designers employed to:

- (A) Design furnishings and equipment.
- (B) Provide furnishings floor plans and layouts.
- (C) Write specifications.

(D) Otherwise develop bid documents and supervise the bidding and installation of furnishings and equipment for the interiors contract or portion of the general contract for the public library construction project.

(10) Independent construction cost estimators employed to provide project cost estimates

- (11) Land surveyors
- (12) Library Consultants providing or assisting in the preparation of:
 - (A) Library needs assessments.
 - (B) Library plans of service.
 - (C) Library facility master plans.
 - (D) Library site studies.
 - (E) Library building programs.
 - (F) Library architectural plans reviews.
- (13) Lighting consultants
- (14) Project managers
- (15) Real estate appraisers
- (16) Scientists required for CEQA compliance
- (17) Signage consultants
- (18) Technology planning consultants
- (19) Telecommunication consultants
- (20) Traffic engineering consultants

(g) Remodeling existing public library facilities owned by the applicant jurisdiction

(1) As required by Education Code 19989 (c), all projects to remodel existing public library facilities shall include "necessary upgrading of electrical and telecommunications systems to accommodate Internet and similar computer technology."

(2) These improvements are defined as enhancements to the electrical and data systems that provide:

- (A) Dedicated circuits for all computers and their peripherals.
- (B) Copper, fiber optic, or wireless data connections with a minimum of Category 5 data cabling. Category 5 cable is data communications twisted pair cable appropriate for transmission of signals up to 100 Mb/second.

(h) Ineligible project costs

Ineligible project costs include but are not limited to the following:

(1) Costs for services related to the administration of the public library construction project that are performed by employees of the applicant or the library service provider are ineligible. An exception shall be made for professional services described in section 20432(e) and (f) where such services are required by the applicant jurisdiction to be provided by a Public Works or similar department, or by other departments providing the professional services, and where costs for the services are directly billed to the construction project.

(2) Lease or lease-purchase payments or the value of land secured through a lease or lease-purchase agreement.

(3) The costs associated with portions of a project that will not be used for the delivery and support of public library direct services are not eligible project costs.

(4) In-kind expenditures and services or donations of materials, labor, furniture, equipment, or articles of any kind shall not qualify as matching funds and shall not be counted as eligible project costs.

(5) The value of land owned by the applicant that is already dedicated to the operation of an existing public library.

NOTE: Authority cited: Section 19992, Education Code. Reference: Sections 19987, 19989, 19990, 19995 and 19996, Education Code.

HISTORY

1. New article 2 (sections 20432–20444) and section filed 12–5–2001; operative 1–4–2002 (Register 2001, No. 49).

§ 20434. Funding Priorities.

(a) New public library project priorities

(1) First priority for new public library facilities: joint use projects

As specified in Education Code section 19994(a)(1), first priority for new public libraries shall be given to joint use projects in which the agency that operates the library and one or more school districts have a cooperative agreement. [See sections 20440(d)(1) and Appendix 2 for information about Cooperative Agreements.]

Joint use projects shall be one of two types:

(A) Co-located library [See "Co-located library" definition in section 20430(k)]

(B) Joint venture projects [See "Joint venture project" definition in section 20430(ee)]

Joint venture projects shall provide one or more of the following services:

1. Computer center

A computer center houses computer systems with electronic resources or other educational technologies to assist with any combination of K–12 student learning activities. Services shall include one or more of the following:

- a. A range of computer literacy classes covering introductory to advanced skill levels.
- b. Access to the computer resources, including the Internet, for both public and student clientele.
- c. Computer literacy activities for students and their families or caregivers.
- d. Distance learning equipment and staff to enable online instruction and other forms of educational interaction with distant communities, individuals, or institutions.

2. Family literacy center

A family literacy center houses materials and space for tutoring and instructional activities to improve the ability of K–12 students and their parents or caregivers to read and write English and to develop lifelong learning skills. Activities shall include one or more of the following:

- a. One-to-one tutoring, either personal or online.
 - b. Small group instruction.
 - c. Reading and writing instruction.
 - d. Computers with software to improve reading and writing skills.
 - e. Literacy programming for students and their families or caregivers.
 - f. After-school literacy programming for students.
3. Homework center

A homework center houses space to provide materials and formal support to assist K–12 students with homework and/or study assignments. Support shall focus on the needs of students including either general assistance in reading, writing, science, language, math skills, and study skills, or individual student assignment assistance, or both. Services shall include one or more of the following:

- a. Specialized print and electronic resource collections responsive to curriculum needs, including designated computer time for student homework needs.
- b. Peer and/or adult assistance, either paid or volunteer.
- c. Instruction in research and study skills.
- d. Provision of appropriate support tools such as bibliographies, listing of web sites, and pathfinders.
- e. After-school computer or language literacy activities.
- f. Temporary reserve or limited circulation collections in response to teacher requests.

4. Career center

A career center houses space to provide job, career, and college education information to assist K–12 students in assessing and pursuing vocational and career choices. Information formats shall include any combination of print, electronic, and audiovisual resources. Service shall include one or more of the following:

- a. Resources providing information on various careers and vocations, future opportunities, and the necessary associated job skills and/or education.
- b. Career counseling assistance, either paid or volunteer.
- c. Information on available training programs and available jobs.
- d. Résumé assistance, online job posting, and interview training.
- e. College-preparation programs, including scholarship information, college application assistance, college entrance exam preparation, and college essay and résumé preparation.

5. Shared electronic and telecommunication library services

Shared library electronic and telecommunication services provide for the sharing of electronic equipment and resources that complement the curriculum of K–12 students. Services shall include one or more of the following:

- a. Wide-area network between the public library and public school(s).
- b. Collaborative electronic resource database licenses and related training.
- c. Collaborative catalog access and shared circulation systems and related training.

6. Subject specialty learning centers

Subject specialty learning centers house a comprehensive, in-depth collection of resources and learning activities on a specific subject area that complements the curriculum of the school district that is a part of the joint use cooperative agreement.

7. Other library services

Other similar collaborative library services that directly benefit K–12 students.

(2) Second priority for new public library facilities: all others

As specified in Education Code section 19994(a)(2), all other new public library projects shall be given second priority.

(b) Priorities for remodeling existing public library facilities owned by the applicant jurisdiction

(1) Remodeling first priority

As specified in Education Code section 19994(b)(1), to be considered for first priority funding, a project to remodel an existing public library building owned by the applicant jurisdiction shall be within the attendance area of a public elementary, middle, or high school that, at the time of application, is identified as having inadequate infrastructure to support access to computers and other educational technology.

(A) If the project is located in the attendance area of more than one public school, the applicant may select any one of the schools with inadequate infrastructure.

(B) The applicant shall submit with the Application Form:

1. A letter from the public school district superintendent verifying that at the time of the Board's application deadline:

a. The project site is located within the attendance area of the identified public school.

b. None of the public school buildings at the identified public school has an incoming telecommunication connection greater than 512 thousand bits per second (512K bps).

2. A copy of the public school attendance area map showing that the public library project site is within the attendance area.

(2) Remodeling second priority

As specified in Education Code section 19994(b)(2), second priority shall be given to all other remodeling projects for existing public library facilities owned by library jurisdictions.

NOTE: Authority cited: Sections 19992 and 19994, Education Code. Reference: Sections 19991, 19993, 19994 and 19999, Education Code.

HISTORY

1. New section filed 12–5–2001; operative 1–4–2002 (Register 2001, No. 49).

§ 20436. Determining Project Costs.

(a) Determining the value of land and buildings

(1) Land and buildings purchased by or donated to the applicant

(A) The eligible project cost for land and buildings acquired by the applicant, whether purchased or donated, shall be the appraised value as determined by a certified appraiser no more than one year prior to the date of the Board's deadline for application.

(B) When an existing building is purchased for conversion and will be a multipurpose building, the applicant shall provide an appraisal of only the public library portion of the building and site. [See definition: section 20430(ss)]

(2) Appraisals of land and buildings

(A) An appraisal is only required if the value of the land or building will be claimed as an eligible project cost or a local matching fund credit.

(B) Appraisals of land and buildings to determine the best and highest use of the property shall be in conformance with the requirements of the Real Estate Appraiser's Licensing and Certification Law (Business and Professions Code sections 22300, et seq.).

(C) Appraisals shall be performed by an appraiser who:

1. Has a State Certified General Real Estate Appraiser's License.

2. Is an independent appraiser, not an employee of the applicant, the applicant's library service provider, or the seller of the proposed public library site.

(3) Contested appraisals

If the appraisal is contested by the State Librarian or the applicant, one or more additional certified appraisals shall be obtained by the applicant. The difference in the appraisals shall be resolved by a determination of land value made by the California Department of General Services, Real Estate Division.

(b) Construction cost estimate

All applicants shall submit with the Application Form a projected construction cost estimate that is based on the conceptual plans and that has been prepared by an architect, engineer, or a construction cost estimator.

The estimate shall be organized in one of the following formats, or in a similar estimating format, at the applicant's option.

(1) Format 1 [Construction Specification Institute (C.S.I.) Masterformat Divisions]

(A) General Requirements.

(B) Site Work.

(C) Concrete.

(D) Masonry.

(E) Metals.

(F) Wood and Plastics.

(G) Thermal and Moisture Protection.

(H) Doors and Windows.

(I) Finishes.

(J) Specialties.

- (K) Equipment.
- (L) Furnishings.
- (M) Special Conditions.
- (N) Conveying Systems.
- (O) Mechanical.
- (P) Electrical.
- (2) Format 2 [R. S. Means Assemblies Cost Data Manual]
- (A) Foundations.
- (B) Substructures.
- (C) Superstructures.
- (D) Exterior Closure.
- (E) Roofing.
- (F) Interior Construction.
- (G) Conveying.
- (H) Mechanical.
- (I) Electrical.
- (J) General Conditions.
- (K) Special.
- (L) Site Work.

(c) Determining normal public construction costs for new construction

The normal public construction cost in the applicant's area for new construction, both new facilities and square footage for an addition, shall be based on the January 2002 cost per square foot figures for public library buildings, as determined by Marshall Valuation Service in *Special Studies: Library Buildings*. The cost per square foot for new facilities is \$202, and the cost per square foot for square footage added to an existing building is \$238. These figures do not include costs for land acquisition; site development, demolition, utilities, or landscaping; surface and under-building parking; works of art; shelving; furniture; built-in service desks, counters, workstations, or other casework; movable equipment; or architectural and engineering fees.

(I) Locality adjustment

The current cost shall be modified utilizing the following "California Locality Adjustment Table by County." The current cost figure is multiplied by the factor in the adjustment table to obtain the locally adjusted cost of public library buildings.

California Locality Adjustment Table by County

County	Multiplier Factor
Alameda	1.15
Alpine	.98
Amador	.98
Butte	.94
Calaveras	.92
Colusa	.96
Contra Costa	1.14
Del Norte	1.05
El Dorado	1.04
Fresno	.98
Glenn	.96
Humboldt	1.05
Imperial	.97
Inyo	1.03
Kern	.97
Kings	.92
Lake	.98
Lassen	.98
Los Angeles	1.01
Madera	.91
Marin	1.13
Mariposa	.93
Mendocino	.92
Merced	.91
Modoc	.98
Mono	1.02
Monterey	1.07
Napa	1.05
Nevada	1.00
Orange	1.01
Placer	1.01
Plumas	.97

County	Multiplier Factor
Riverside	.99
Sacramento	1.00
San Benito	1.04
San Bernardino	1.00
San Diego	.97
San Francisco	1.20
San Joaquin	.97
San Luis Obispo	.97
San Mateo	1.14
Santa Barbara	1.00
Santa Clara	1.17
Santa Cruz	1.05
Shasta	.98
Sierra	.97
Siskiyou	.98
Solano	1.07
Sonoma	1.04
Stanislaus	.93
Sutter	.93
Tehama	.98
Trinity	1.02
Tulare	.92
Tuolumne	.93
Ventura	.99
Yolo	.94
Yuba	.93

(2) Inflation adjustment

(A) The locally adjusted cost may then be increased by 1/5 percent per month for each month from January 1, 2002, through the estimated mid-point of construction of the project.

(B) This figure shall be the eligible projected construction cost. This figure, or a lesser amount, shall be utilized as the normal public construction cost in the applicant's area unless justification for a higher figure can be made based upon recent local bidding experience.

(3) Optional method

(A) At the applicant's option, the locally adjusted cost figure may be replaced by averaging the construction contract cost per square foot for a minimum of three comparable public construction projects bid in the applicant's county within three years of the Board's deadline for application.

(B) If three comparable public construction project bids cannot be found in the applicant's county within three years of the Board's deadline for application, this locally determined comparable cost approach cannot be utilized by the applicant.

(C) Comparable public construction projects are:

1. Public libraries.
2. Community colleges.
3. Post offices.
4. Museums.
5. Courthouses.
6. City halls.
7. Auditoriums.
8. Convention centers.
9. Civic centers.
10. Senior citizen centers.
11. Public schools.
12. Recreation centers.

(4) Contingency for new construction

For projects with new construction an eligible contingency not to exceed 10% of the eligible projected construction cost may be utilized for any eligible cost in the project budget.

(5) Costs in excess of normal public construction cost

For projects where the projected construction cost exceeds the eligible projected construction cost, the applicant shall provide 100% of the supplemental funds necessary to construct the project at the higher cost.

(d) Normal public construction costs in the applicant's area for remodeling

(1) For remodeling projects, and for the remodeling portions of conversion and addition/remodeling projects, the normal public construction cost in the applicant's area is the eligible projected construction cost estimated by an architect, engineer, or construction cost estimator.

(2) For remodeling projects, and for the remodeling portion of conversion and addition/remodeling projects, a contingency of not more than 15% of the projected cost for remodeling may be utilized in the project.

(3) For addition/remodeling projects, and for the remodeling portion of conversion and addition/remodeling projects, an eligible contingency not to exceed 10% of the eligible projected construction cost of the new construction and an eligible contingency not to exceed 15% of the eligible projected construction cost for remodeling, may be utilized for any eligible cost in the project budget.

(e) Project budget

The project budget found in the Application Form [see section 20440, Appendix 1] shall include both eligible and ineligible project costs directly related to the public library construction project.

The project budget shall also include the following sources of project revenue:

- (1) Amount of State matching funds.
- (2) Amounts and sources of all local matching funds.
- (3) Amounts and sources of all local supplemental funds.
- (f) Calculating the eligible project costs for multipurpose projects

For each budget line item in the project budget on the Application Form, applicants shall calculate the eligible project costs as follows:

- (1) Public library direct services areas eligible costs

The applicant shall determine the eligible project costs for those areas that are dedicated to the delivery and support of public library direct services.

- (2) Common areas eligible costs

For a multipurpose project, applicants shall determine the eligible cost of the common areas by calculating the public library's pro rata share of those costs.

- (3) Multipurpose project cost analysis

An applicant proposing a multipurpose building project shall submit a cost analysis that has been prepared by an architect or construction cost estimator. The cost analysis shall compare the multipurpose project as a whole to the public library portion of the project, justifying the cost figures in the Multipurpose Project Budget section of the Application Form.

- (g) Projected Library Operating Budget

Applicants shall provide on the Application Form a library operating budget that projects:

- (1) The initial library start-up expenses.
- (2) Annual operating expenses for the library.

NOTE: Authority cited: Section 19992, Education Code. Reference: Sections 19989, 19990, 19993, 19995 and 19996, Education Code.

HISTORY

1. New section filed 12-5-2001; operative 1-4-2002 (Register 2001, No. 49).

§ 20438. Site and Title Requirements.

- (a) California Environmental Quality Act (CEQA)

(1) The applicant, as lead agency, shall submit with the Application Form, evidence that the environmental impact documentation (EID) required by CEQA has been fully completed. [See Public Resources Code sections 21000-21177 and California Code of Regulations, Title 14, sections 15000-15387.]

- (2) This evidence shall consist of one of the following:

- (A) No adverse environmental impact

1. Determining applicability of CEQA for the project

If the applicant has determined that there is no possibility the project will result in an adverse environmental impact, or that the project qualifies for a specific statutory or categorical exemption, and therefore is not subject to the provisions of CEQA, provide an explanation and appropriate legal citations.

2. Categorical exemption

If an exemption is claimed for the project, the applicant shall also submit the following:

- a. A statement of the basis for the claim.

- b. A copy of the Notice of Exemption.

- (B) Negative declaration

If a negative declaration was adopted for the project, applicants shall provide a final copy of the negative declaration, as well as a conformed (stamped by the County Clerk) copy of the Notice of Determination which has been signed by the lead agency and filed with the County Clerk with the Application Form.

- (C) Environmental Impact Report

If the project was the subject of an Environmental Impact Report (EIR), applicants shall provide a final copy of the EIR and a conformed (stamped by the County Clerk) copy of the Notice of Determination which has been signed by the lead agency and filed with the County Clerk with the Application Form. Applicants shall also provide a copy of the adopted statement of overriding considerations.

- (3) State Clearinghouse review

Before adopting a Negative Declaration or an Environmental Impact Report, the applicant shall submit the draft environmental documents to the State Clearinghouse at the following address:

STATE CLEARINGHOUSE
OFFICE OF PLANNING AND RESEARCH
P.O. BOX 3044
SACRAMENTO, CA 95812-3044

The applicant shall take into consideration timely comments made by State agencies on the project before adopting final environmental documents and approving the project. The applicant shall provide either the compliance letter or the comments from State agencies provided by the State Clearinghouse with the Application Form. After project approval a Notice of Determination shall be filed with the County Clerk before it is submitted with the Application Form.

- (b) Marketable record title

"Marketable record title" means that the title to the property shall include both legal and equitable estates, be free of unknown encumbrances, and be in a condition that an informed and reasonable buyer, exercising reasonable care, would and should accept it.

- (c) Obtaining marketable record title

- (1) Site is owned or will be owned by the applicant:

(A) The applicant shall submit proof of current marketable record title to the public library site.

(B) Applicants with multipurpose buildings shall submit proof of current marketable record title only for those portions of the multipurpose project site for which Bond Act funds will be expended.

(C) Even though the applicant does not own the property at the time the application is submitted, the applicant shall submit proof of current marketable record title.

- (2) Lease and lease-purchase agreements

If the public library site will be secured through a lease or lease-purchase agreement, the applicant shall provide the State Librarian with proof that the lessor holds marketable record title to the public library site and shall comply with the requirements of section 20440, Appendix 6, item 1. c.

- (3) Acquisition of a building

If the applicant acquired or will acquire a building for the purpose of converting it into a public library, the applicant shall obtain marketable record title to the building.

- (4) Preliminary title report required

Proof of current marketable record title shall be submitted with the Application Form, section 20440, Appendix 1. The proof of marketable record title shall include a preliminary title report which shall include, but not be limited to, the following, as applicable.

- (A) Names and addresses of all owners and their respective interests.

- (B) A description of the exact property being proposed.

(C) A statement of easements, appurtenances, encumbrances, and all other matters of record that might impact the use of the property.

(D) A plat plan or survey showing in detail the location of the property and any easements.

- (5) Title exceptions

If there are exceptions to the marketable record title, the applicant's legal counsel shall prepare a written opinion indicating that the exceptions present do not diminish the use of the property for a public library building or in any way diminish or limit the State's interest in the property.

- (d) State's interest recorded in the title record
- (1) State's interest in the land

(A) State's interest in the land required

When State grant funds have been provided by the Board for acquisition of or credit for land, upon completion of the project the grant recipient shall record the State's interest in the land in the title record.

- (B) Statement to be added to land title

The title record for land shall specify the State's interest by recording that the land shall be used to provide public library direct service for 40 years following the completion date of the project, as specified in Education Code section 19999.

- (2) State's interest in the public library building

(A) State's interest in the building required

When Bond Act funds have been provided for acquisition, construction, or remodeling of a public library facility, upon completion of the project the grant recipient shall record the State's interest in the facility in the title record.

- (B) Statement to be added to the building title

The title record for the building shall specify the State's interest by recording that the public library facility shall be used to provide public library direct service for 40 years following the completion date of the project, as specified in Education Code section 19999.

NOTE: Authority cited: Section 19992, Education Code. Reference: Sections 19989 and 19999, Education Code.

HISTORY

1. New section filed 12-5-2001; operative 1-4-2002 (Register 2001, No. 49).
2. Change without regulatory effect redesignating former subsection (a)(2)(D) as subsection (a)(3) and amending subsections (c)(1)(A)-(C) and (c)(4) filed 3-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 12).

§ 20440. Grant Application Requirements.

- (a) Application for Bond Act grant funds

(1) For each application cycle, applicants shall submit:

(A) A completed Application Form found in section 20440, Appendix 1, and six additional copies of the form.

(B) One copy of each supporting document.

(2) Applications submitted for each cycle, including supporting documents, are the property of the California State Library.

(3) Applications shall be submitted by the application deadlines and sent to the mailing address specified in section 20442.

- (b) Supporting documentation instructions

(1) All supporting documentation shall be submitted with the Application Form.

(2) Supporting documentation is required for all applications unless otherwise noted in the Bond Act regulations.

(3) If an Executive Summary is specified in a required document, it shall be no longer than two single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.

- (c) Supporting document submittals: site and building

(1) Boundary survey

(A) All applicants, except those with multipurpose projects, shall provide a boundary survey showing the metes and bounds of the proposed library site.

(B) Applicants with multipurpose buildings shall provide a boundary survey for the entire multipurpose project site.

(C) The survey shall be stamped and signed by a licensed land surveyor.

- (2) Geotechnical report

Applicants with new construction or additions to existing public libraries or buildings to be converted to public libraries shall provide a copy of a geotechnical report performed by a licensed engineer.

- (3) CEQA documentation [See section 20438(a)]

- (4) Visual record of the existing library

(A) Applicants who have existing public library buildings that will be replaced or improved shall provide photographs and/or video of the existing public library building as support documentation concerning the age and condition of the building. If a new library building will replace more than one existing library, applicants shall provide photographs and/or video of each library being replaced.

(B) An applicant proposing a co-located joint use project in partnership with a public school that has an existing library shall also provide photographs and/or video of each school library that will be replaced or improved.

(C) All photographs and videos shall be labeled with the name of the applicant and the project name.

- (5) Map and visual record of the site

Applicants with new construction or additions to existing public libraries or buildings to be converted to public libraries shall provide photographs and/or video of the site and surrounding area as follows:

- (A) Visual record

1. Show views facing toward the site from a minimum of two vantage points from outside the site, one of which shall be the building front entrance.

2. Show at least one view from each of the following directions from the vantage point of the middle of the site, facing out: north, south, east, and west.

3. All photographs and videos shall be labeled with the name of the applicant and the project name.

- (B) Map showing the site

Provide one or more maps showing the location of the proposed library site in the community showing the following:

1. The service area of the proposed project.

2. All major thoroughfares.

3. All public K-12 schools and.

4. All major retail business centers.

- (6) Preliminary title report [See section 20438(c)(4)]

- (7) Legal opinion regarding title exceptions [See section 20438(c)(5)]

- (8) Site ownership, option to purchase, or possession of lease

(A) If a site is owned by the applicant at the time of application, the applicant shall submit verification of ownership.

(B) If the library site is not owned by the applicant at the time of application, the applicant shall submit one of the following with the Application Form:

1. For a site that will be purchased, a copy of a legally executed option to purchase agreement for the site.

2. For a site that will be donated, a copy of a legally binding agreement to donate the site.

3. For a site that will be secured through a lease or lease-purchase agreement, a legally executed lease or lease-purchase agreement for the site that is in compliance with the conditions of section 20440, Appendix 6, and which may contain a provision making the lease agreement or lease-purchase agreement contingent upon funding of the project by the Board.

- (9) Building ownership (conversion projects)

(A) If a building is owned by the applicant at the time of application, the applicant shall submit verification of ownership.

(B) If a building to be converted into a public library is not owned by the applicant at the time of application, the applicant shall submit a copy of a legally executed option to purchase agreement for the building.

(C) In the case of a building that will be donated, the applicant shall submit a copy of a legally binding agreement to donate the building.

- (10) Verification of property value

Completed property appraisals shall be submitted with the Application Form. [See section 20436(a).]

(11) Parking shared use agreement (if applicable) [See Application Form, Library Automobile Parking section]

(12) Required studies for remodeling, conversion, and addition–remodeling projects only

Applicants for remodeling, conversion, and addition–renovation projects shall submit the following with the Application Form:

(A) Structural study — A licensed engineer's study that assesses the structural integrity of the existing building.

(B) Hazardous materials — A hazardous materials survey that determines the presence of hazardous materials in the building and provides an initial cost estimate for the safe removal or abatement of the materials. The building survey for hazardous materials shall be performed by a hazardous materials consultant as defined in section 20432(f)(7).

(C) Energy audit — a study performed by a licensed engineer that assesses the existing facility's energy efficiency and makes specific recommendations regarding how the facility can be made more energy efficient.

(D) ADA study — a study performed by an ADA consultant that assesses the existing facility's limitations for its use by individuals with disabilities and makes specific recommendations regarding how the facility can be made physically accessible.

(E) Project feasibility study — performed by architects and engineers to determine the feasibility of utilizing a specific building for the proposed public library project.

(13) First priority remodeling projects only: letter from the public school district superintendent [See section 20434(b)(1)(B)1.]

(14) First priority remodeling projects only: public school attendance area map [See section 20434(b)(1)(B)2.]

(d) Supporting document submittals: planning

For the required supporting documents defined in Appendices 3–5, all components and elements listed in the Appendices are required, but need not be in the specific order listed in the Appendices and may appear in any of the planning documents.

(1) Joint use projects only: cooperative agreement

Along with the grant Application Form for a joint use project, all applicants for joint use project funding shall submit a copy of the cooperative agreement between the public library jurisdiction and the public school district(s) that shall include the elements listed in section 20440, Appendix 2.

(2) Community Library Needs Assessment

(A) All applicants shall submit a copy of a Community Library Needs Assessment that demonstrates the need for the specific project and describes its relationship to the overall public library jurisdiction.

(B) Joint use project applicants shall develop the Community Library Needs Assessment as a collaborative effort between both the public library and the public school district(s) and shall also consider and respond to the needs of both public library and school library clientele.

(C) The Community Library Needs Assessment shall have been completed or revised within five years of the application deadline.

(D) Community Library Needs Assessment components

The Community Library Needs Assessment shall include, but not be limited to, the elements listed in section 20440, Appendix 3.

(3) Library Plan of Service

(A) Applicants shall submit a Library Plan of Service that describes how the needs of the residents in the library service area, as identified in the Community Library Needs Assessment, will be met by the proposed project.

(B) The Library Plan of Service shall include the elements listed in section 20440, Appendix 4.

(4) Library Building Program

(A) Applicants shall submit a Library Building Program that demonstrates how the Library Plan of Service will be implemented in the project.

(B) The Library Building Program shall contain the components listed in section 20440, Appendix 5.

(5) Conceptual plans submittal

(A) All applicants shall submit conceptual plans on paper not less than 24" x 36" prepared by an architect justifying the architectural and engineering projected construction cost estimate. The plans shall be submitted with the Application Form prior to the Board's application deadline.

(B) Applicants with multipurpose projects shall submit the required conceptual plans for both the total multipurpose project, as well as the library portion of the project.

(C) The conceptual plan submittal shall consist of the following:

1. An area plan showing the library site in context with the surrounding neighborhood buildings, parking, public transit stops, and streets. The plans and documentation shall demonstrate that the architectural design for the project is compatible with the scale and character of the surrounding neighborhood.

2. A site plan showing the library building, automobile and bicycle parking, access roads, bicycle and pedestrian pathways, and any anticipated future expansion of the building and parking. The site plan shall also indicate which direction is north.

3. A floor plan (single line drawing) identifying by name the major programmed areas for the library, including non-assignable spaces. Each area shall show the assignable square footage called for in the library building program and the actual square footage allocated on the floor plan.

4. Two sections through the building, one longitudinal and one latitudinal.

5. Two elevations, with one elevation being the front of the library building.

6. Outline specifications describing the type and quality of building systems, basic components, and components unique to the project. The specifications shall contain references to any applicable sections of State statutes and State building codes.

(e) Supporting document submittals: financial and certifications

(1) Projected construction cost estimate [See section 20436(b)]

(2) Multipurpose projects: cost analysis [See section 20436(f)(3)]

(3) Resolution certifying project budget, local funding commitment, supplemental funds, and public library operation

The applicant's governing body shall certify the following by resolution and submit a copy of the resolution with the Application Form:

(A) A commitment to provide the local matching fund amount identified in the Library Project Budget, as required by Education Code section 19995(a), including and identifying any amounts to be credited to local matching funds pursuant to section 19995(c) and (d).

(B) A commitment to provide supplemental funds necessary to complete the project at the level stated in the project budget [See section 20436(e)].

(C) The availability of the local matching and supplemental funds specified in the project budget when they are needed to meet cash flow requirements for the project.

(D) The project budget contained in the Library Project Budget section of the Application Form.

(E) The accuracy and truthfulness of all information submitted in the Application Form and the required supporting documents.

(F) A commitment to operate the completed facility and provide public library direct service, unless the public library shall be operated in whole by a jurisdiction other than the applicant.

(G) A commitment that the facility shall be dedicated to public library direct service use for a period of 40 years following completion of the project, regardless of any operating agreements the applicant may have with other jurisdictions or parties.

(4) Operation of the facility involving a jurisdiction other than the applicant

If the completed public library will be operated by a jurisdiction other than the applicant, the applicant shall obtain from the operating jurisdiction a copy of a resolution of its governing body that certifies a commitment to operate the completed facility and provide public library direct service and submit the copy with the Application Form.

(5) Private funds — availability deadline and account certification

The applicant shall submit a copy of an account statement from the applicant's accounting system showing the amount of private funds designated in the Library Project Budget section of the Application Form. This

account statement shall be submitted with the Application Form.

NOTE: Authority cited: Sections 19992 and 19994, Education Code. Reference: Sections 19988, 19989, 19993, 19996, 19997, 19998 and 19999, Education Code.

HISTORY

1. New section and appendices 1–6 filed 12–5–2001; operative 1–4–2002 (Register 2001, No. 49).
2. Change without regulatory effect amending appendices 1 and 3 filed 3–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 12).

Appendix 1

Application Form

CALIFORNIA READING AND LITERACY IMPROVEMENT AND PUBLIC LIBRARY CONSTRUCTION AND RENOVATION BOND ACT OF 2000 FUNDS

Administered by the California State Library, Office of Library Construction

The applicant local jurisdiction, pursuant to the Education Code, Title 1, Division 1, Part 11, Chapter 12, Articles 1-3, sections 19985-20011 and Title 5, Division 2, Chapter 3, sections 20430-20444 of the California Code of Regulations, hereby makes application for a state matching grant for the construction or remodeling of the public library facility described herein and in all supporting documents:

APPLICATION FORM INSTRUCTIONS:

- Limit comments throughout the entire form to the space provided unless otherwise stated.
- Single space responses, limiting type size to no smaller than 11 points if using a computer, or 12 pitch (elite) if a typewriter is used.
- Attachments shall not be accepted unless required by regulation or called for in the application form.
- Applicants shall submit a completed Application Form and six additional copies of the form.

(See section 20440 for complete application submittal requirements)

PROJECT IDENTIFICATION

1. Official Name of Project: ♦ _____

2. Type of Applicant Jurisdiction: ♦ (Check one only) City ☐ County ☐ City/County ☐ District ☐

3. Grant Applicant Name: ♦ _____
Legal name of jurisdiction that will own building

(For multipurpose projects, list the legal name of the jurisdictions that will own the public library portion of the multipurpose building.)

4. Authorized Official of the Applicant Jurisdiction: ♦ _____
Mayor, Chairperson of Board of Supervisors, Head of Special District, authorized to sign the application

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

5. Project Coordinator: ♦ _____
Name of individual who will have administrative control over the project for the applicant local jurisdiction

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

6. Alternate Project Contact Person: ♦ _____*If the project coordinator is unavailable, the contact person shall be authorized to act in the capacity of the project coordinator.*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____
_____**7. Head of Planning Department:** ♦ _____*(For the applicant jurisdiction, if applicable. Special Districts are exempt.)*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____
_____**8. Head of Public Works or General Services Department:** ♦ _____*If Applicable: Head of Public Works or General Services Department for the applicant jurisdiction. Special Districts are exempt.*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____
_____**9. Operating Library Jurisdiction:** ♦ _____*Legal name of library that will operate the public library.***10. Library Director Name:** ♦ _____*Public library director for the library jurisdiction that will operate the public library.*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____
_____**11. Alternate Library Contact Person:** ♦ _____*If the library director is unavailable, the contact person shall be authorized to act in the capacity of the library director.*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____
_____**12. Library Building Program Consultant:** ♦ _____*(If applicable)*

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

13. Technology Planning Consultant: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

14. Project Architect: ♦ _____ **License#** _____
Providing construction budget estimate and/or conceptual plans.

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

15. Project Manager: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

16. Construction Manager: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

17. Construction Cost Estimator: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

18. Hazardous Materials Consultant: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

19. Project Interior Designer: ♦ _____
(If applicable)

Title: ♦ _____ Phone: ♦ _____ E-mail: ♦ _____

Address: ♦ _____

TYPE OF PROJECT

New Public Library Building

Gross Total Project Square Footage

1. Construction of a New Public Library Building _____ SF
2. Conversion of an Existing Building into a New Public Library Building _____ SF
3. Conversion and Expansion of an Existing Building into a New Public Library _____ SF
(Include both new & remodeled square footage.)

Gross Square Footage	
Remodeling:	_____ SF
Expansion:	_____ SF

Priority:

☐ First Priority "Joint Use"

☐ Co-Location Joint Use

☐ Joint Venture Joint Use

☐ Computer Center

☐ Shared Electronic/Telecommunications

☐ Family Literacy Center

☐ Subject Specialty Center

☐ Homework Center

☐ Career Center

☐ Other similar collaborative library services with direct benefit to K-12 students

Specify: _____

☐ Second Priority "All Others"

Existing Public Library Building

Gross Total Project Square Footage

4. Remodeling an Existing Public Library Building _____ SF
5. Remodeling and Expansion of an Existing Public Library Building _____ SF
(Include both new & remodeled square footage.)

Gross Square Footage	
Remodeling:	_____ SF
Expansion:	_____ SF

☐ First Priority

A public library project in the attendance area of a public school that has inadequate infrastructure to support access to computers and other educational technology.

"Inadequate infrastructure" is defined as an incoming telecommunication connection to a school building of equal to or less than 512 thousand bits per second (512K bps).

Name of Public School: _____

☐ Second Priority "All Others"

Field Act Applicability (Joint use projects only)

6. Is the project subject to the Field Act?

Yes ☐

No ☐

Multipurpose Buildings (Multipurpose Building Projects Only)Is the project a Multipurpose Building? Yes ☐ No ☐

(A multipurpose building is a multi-occupant facility, part of which is a public library and part of which is used for other purposes.)

Types of Multipurpose Building Uses & Square Footage Allocations

Space Use	SQ FT	%
-----------	-------	---

1. Dedicated to Public Library Use

(Including Public Library / School Library Use, If Joint Use Project)

_____ SF _____ %
 Line 1 SF divided by
 (Line 1 SF + Line 3 SF)

2. Dedicated to "Other" UsesSQ FT

A. Specify: _____ SF

B. Specify: _____ SF

C. Specify: _____ SF

D. Specify: _____ SF

E. Specify: _____ SF

F. Specify: _____ SF

G. Specify: _____ SF

H. Specify: _____ SF

3. Subtotal: Dedicated to "Other" Uses

_____ SF _____ %
 Add Lines 2A SF thru 2H SF
 Line 3 SF divided by
 (Line 1 SF + Line 3 SF)

4. Common Areas ¹**5. Subtotal: Total of Common Areas ¹**

_____ SF
 Must equal Line 6 SF + Line 7 SF

SQ FT

6. Public Library Pro Rata Share of Common Areas¹ _____ SF
 Line 5 SF x
 % in Line 1

7. "Other" Uses Pro Rata Share of Common Areas¹ _____ SF
 Line 5 SF x
 % in Line 3

8. TOTAL MULTIPURPOSE BUILDING SQUARE FOOTAGE

_____ SF
 Add Lines 1 SF, 3 SF, & 5 SF

9. SF ATTRIBUTABLE TO PUBLIC LIBRARY USE

_____ SF
 Line 1 SF + Line 6 SF

¹ "Common Areas" are those areas of a multi-occupant building that are shared by all occupants, such as lobbies, vestibules, mechanical rooms, restrooms, custodial areas, delivery, shipping and receiving areas, loading docks, kitchenettes, auditoriums, meeting rooms, conference rooms, and storage areas that are used by all parties of a multipurpose building.

PROJECT PLANNING INFORMATION

Population Growth

When providing the 1980, 2000, and 2020 population figures below, the applicant shall count only those residents:

- (a) Within the official boundaries of the applicant jurisdiction, and
- (b) Within the service area of the proposed project, but
- (c) Exclude all people living within the boundaries of other special district, county, or city public library service areas, for which there is no public library service contract with the applicant.

All Projects:

1. Public library project's service area 1980 population: _____
2. Source: _____
3. Population Percentage Change from 1980 to 2000: _____ %
4. Public library project's service area 2000 population: _____
5. Source: _____
6. Population Percentage Change from 2000 to 2020: _____ %
7. Public library project's service area 2020 population: _____
8. Source: _____

Joint Use Projects (Both Co-location & Joint Venture Projects):

9. Project's public school attendance area(s) 1980 student population: _____
10. Source: _____
11. Population Percentage Change from 1980 to 2000: _____ %
12. Project's public school attendance area(s) 2000 student population: _____
13. Source: _____
14. Population Percentage Change from 2000 to 2020: _____ %
15. Project's public school attendance area(s) 2020 student population: _____
16. Source: _____

Existing Library Facility Square Footage**Existing Public Library:**

1. The current gross square footage of the existing public library(s) being replaced is: ♦ _____ SF
If no existing public library facility, enter "0."

Existing School Library: (Co-located Projects Only)

2. The current gross square footage of the existing school library(s) being replaced is: ♦ _____ SF
If no existing school library facility, enter "0."

Library Facilities Master Plan

Describe the relationship of the proposed project to other existing or planned library facilities for the jurisdiction.

Age of the Existing Library Facility

See Definition of "Existing Public Library," section 20430.

All Projects

1. When was the existing public library building(s) that will be replaced or improved built?

Year

If no existing public library facility, enter "N/A"

If proposed project will replace more than one building, list the oldest of the buildings.

Co-Located Joint Use Projects Only

In addition to the information listed above:

2. When was the existing school library building(s) that will be replaced or improved built?

Year

If no existing school library facility, enter "N/A"

If proposed project will replace more than one building, list the oldest of the buildings.

Condition of the Existing Library Facility

See Definition of "Existing Public Library," section 20430.

All Projects

3. When was the most recent structural¹ renovation or expansion of the existing public library building(s) that is to be replaced or improved by the proposed project?

Year

If no existing public library facility, enter "N/A"

If proposed project will replace more than one building, list the oldest of the buildings.

Co-Located Projects Only

In addition to the information listed above:

4. When was the most recent structural¹ renovation or expansion of the existing school library building(s) that is to be replaced or improved by the proposed project?

Year

If no existing school library facility, enter "N/A"

If proposed project will replace more than one building, list the oldest of the buildings.

¹ Pertaining to the load bearing elements of the building

SITE INFORMATION

Ownership and Availability

Site

1. Is the library site currently owned by the applicant? ☐ Yes ☐ No
2. Will the library site be owned by the applicant? ☐ Yes ☐ No
3. Will the library site be leased by the applicant? ☐ Yes ☐ No
4. If the library site will be leased, provide the name of the owner: _____
5. Was the site acquired with funds from the "Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998"?
[See Education Code section 19995 (c)] ☐ Yes ☐ No
6. Is the site currently dedicated to the operation of a public library? ☐ Yes ☐ No

Building (For Conversion Projects Only)

7. Is the building to be converted currently owned by the applicant? ☐ Yes ☐ No
8. Will the building be owned by the applicant? ☐ Yes ☐ No

Title Considerations

Site

9. Are there any exceptions to marketable record title? ☐ Yes ☐ No

Building (For Conversion Projects Only)

10. Are there any exceptions to marketable record title? ☐ Yes ☐ No

Appraisal

(No appraisal is required if the value of the land or building will not be claimed as an eligible project cost or a local matching fund credit.)

Site

11. What is the appraised value of the library site?
(or library portion of site, if multipurpose project) ♦ \$ _____
12. Does the appraiser have a State Certified General Real Estate Appraiser's License? ☐ Yes ☐ No

Building (For Conversion Projects Only)

13. What is the appraised value of the building?
(or library portion of building, if multipurpose project) ♦ \$ _____
14. Does the appraiser have a State Certified General Real Estate Appraiser's License? ☐ Yes ☐ No

Site Use Potential

Accessibility

Describe the accessibility of the proposed site for the residents in the library service area:

Equal Access

Discuss the site's accessibility to all parts of the library service area and its location in relationship to the geographic center of the library service area. Discuss any natural and artificial barriers that may impede access to the site.

Public Transit Access

☛ Number of public transit stops located within $\frac{1}{4}$ mile of site: _____

If public transit is available in the library service area, describe the various public transit access opportunities for the site. If no public transit is available in the library service area, enter "No Public Transit Service."

Pedestrian & Bicycle Access

Describe other access opportunities such as pedestrian walkways and bicycle paths. Discuss plans for amount and location of bicycle parking, including local ordinance requirements.

Automobile Access

Describe the site's accessibility by automobile for residents of the library service area. Take into consideration traffic, traffic systems, and availability of curb cuts.

Proximity to Major Thoroughfares

List the major arterial routes in the library service area with the most recent traffic counts (number of vehicles per day):

<u>Street Name</u>	<u>Number of Blocks from Site</u>	<u>Traffic Count</u>	<u>Count Date</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____

Parking Rationale

Describe the rationale behind the amount of parking that will be available for the project, including: (1) the location of the automobile parking (on-site or off-site), both within and beyond 500 feet of the library entrance; (2) local zoning requirements; (3) the availability of public transportation; (4) bicycle parking and bicycle and pedestrian paths; and (5) any other considerations impacting automobile parking requirements including, but not limited to, parking partnerships with shared use agreements.

Visibility

Describe how visible and prominent the public library building will be within the library service area.

Community Context & Planning

Describe the proximity of the proposed site to other facilities and areas of the community, and how that proximity enhances the use of the library by the residents in the library service area. Describe the appropriateness of the proposed site including whether the proposed library project will contribute to the establishment, redevelopment, or revitalization of a community or downtown core, business district, or neighborhood. Describe how the proposed library is connected to other uses, including public use facilities, by a full range of transportation and pedestrian options.

Site Selection Process

Describe the site selection process including community and planning department involvement, consultant assistance, as well as any other pertinent activities associated with determining the best site for the library project.

Site Selection Summary

Describe why the proposed site was selected and why it is the best available location for the proposed public library project. If there are problems with the proposed site, are there mitigating circumstances that lessen the negative impact of the problem or problems? Describe any proposed design solutions that may moderate the site's drawbacks.

Site Description

Size

The total square footage of the library site should equal the square footage shown in 1 through 8 below:

All Projects (Except Multipurpose Buildings)

Square Footage

1. Proposed Library Building Footprint ¹	_____ SF
2. Proposed Library Surface Parking Lot	_____ SF
3. Proposed Library Parking Structure Footprint ¹	_____ SF
4. Future Library Building Expansion Footprint ¹	_____ SF
5. Future Library Parking Expansion	_____ SF
6. Required Local Zoning Set-Backs	_____ SF
7. Desired Aesthetic Set-Backs & Amenities	_____ SF
8. Miscellaneous & Unusable Space	_____ SF
9. Total Square Footage of Library Project Site	_____ SF
10. Proposed Under-Building Parking	_____ SF

¹ "Footprint" means the square footage of surface area of the site that a building or structure occupies. For example, a single story 10,000 square foot building would have a 10,000 square foot footprint, but a two-story 10,000 square foot building with 5,000 square feet on each level would have a footprint of 5,000 square feet.

Multipurpose Building Projects Only

	A Library ² Dedicated <u>SQ FT</u>	B Library Portion of Common <u>SQ FT</u>	C Other ³ Common <u>SQ FT</u>	D Other ³ Dedicated <u>SQ FT</u>
1. Proposed Building	_____	_____	_____	_____
2. Proposed Surface Parking Lot	_____	_____	_____	_____
3. Proposed Parking Structure	_____	_____	_____	_____
4. Future Building Expansion	_____	_____	_____	_____
5. Future Parking Expansion	_____	_____	_____	_____
6. Required Local Zoning Set-Backs	_____	_____	_____	_____
7. Desired Aesthetic Set-Backs & Amenities	_____	_____	_____	_____
8. Miscellaneous & Unusable Space	_____	_____	_____	_____
9. Total Square Footage of Multipurpose Project Site	_____	_____	_____	_____
10. Proposed Under-Building Parking	_____	_____	_____	_____

² Library means that portion of the project that provides space for the delivery and support of public library direct services, including joint use school library services (co-location or joint venture).

³ "Other" uses means any other space that does not provide for the delivery and support of public library direct services.

Zoning**Classification**

1. What is the current zoning classification of the site? ♦ _____
2. Will the site have to be rezoned to build the project? Yes ☐ No ☐

Variance or Waiver

3. Will a zoning variance or waiver be needed to build the project? Yes ☐ No ☐
4. If so, list the date the variance or waiver has been or will be granted? ♦ _____
(Date)

Permits & Fees**Permit & Fees Identification**

Provide a list of any site permits or fees that have been or will need to be obtained:

<u>Permit or Fee</u>	<u>Cost of Permit or Fee</u>	<u>Date Obtained or will be Obtained</u>
5. _____	\$ _____	_____
6. _____	\$ _____	_____
7. _____	\$ _____	_____
8. _____	\$ _____	_____

Drainage

9. Is the site in the 100-Year Flood Plain? Yes ☐ No ☐
10. Do any watercourses that require control drain onto the site? Yes ☐ No ☐
11. Do any watercourses that require control drain off the site? Yes ☐ No ☐
12. Is the storm sewer system currently adequate to prevent localized flooding of the site? Yes ☐ No ☐

Describe any necessary mitigation measures regarding drainage.

California Environmental Quality Act (CEQA)**CEQA Litigation**

Are there any unresolved legal actions pending against the project regarding CEQA compliance? If so, provide the case name, court number, and a brief explanation.

Energy Conservation

Describe what measures (include building design, solar orientation, materials, mechanical systems, natural ambient lighting, etc.) are planned to reduce energy consumption and operating costs for the library.

Historic Buildings**Historic Status**

1. Was the existing building, if it is being renovated or expanded as part of the project, or any buildings on adjacent properties, built longer than 50 years ago?

Yes ☐ No ☐

Is the existing library building project, or any buildings on adjacent properties:

2. On the National Register of Historic Places?

Yes ☐ No ☐

3. A National Historic Landmark?

Yes ☐ No ☐

4. A National Monument?

Yes ☐ No ☐

5. On County or Municipal Historic Designation list?

Yes ☐ No ☐

6. On the California Register of Historical Resources list?

Yes ☐ No ☐

7. A California Historical Landmark?

Yes ☐ No ☐

8. A State Point of Historical Interest?

Yes ☐ No ☐

Federal Compliance

9. Will this project utilize Federal funds or require a permit or license from a Federal Agency?

Yes ☐ No ☐

10. If yes, has the review process required by section 106 of the National Historic Preservation Act been completed?

Yes ☐ No ☐

If not, please explain.

State Historic Preservation Office (SHPO)

1. Has the State Historic Preservation Office been contacted regarding the project? Yes ☐ No ☐

If yes, summarize any comments received from SHPO. Does the project meet the Secretary of the Interior's Standards for the Treatment of Historic Properties? Please explain.

Local Historic Preservation Ordinance

2. Is there a local historic preservation ordinance that applies to the proposed project site or any adjacent properties? Yes ☐ No ☐

If yes, briefly specify any applicable requirements or restrictions, such as height limits, etc. Further, describe any ways that the proposed project's conceptual design plans are not substantially in compliance with the local historic preservation ordinance.

Geotechnical Report

Identify and summarize any special geologic conditions, including, but not limited to, compressible and expansive soils, tunnels and mine shafts, unstable slopes, active seismic zones, excessive ground water and areas prone to liquefaction. Indicate if these conditions will prevent the use or significantly increase the cost of developing the site for a public library building.

Demolition

Describe any necessary demolition of structures and the associated costs involved with the site.
(If no demolition, indicate by "N/A")

<u>Structure(s) to be Demolished</u>	<u>Demolition Cost Estimate</u>
1. _____	♦ \$ _____
2. _____	♦ \$ _____
3. _____	♦ \$ _____
4. _____	♦ \$ _____
5. _____	♦ \$ _____
6. _____	♦ \$ _____
Total Demolition:	♦ \$ _____

Utilities

Describe availability of utilities and associated costs if any utilities are not currently located within 100 feet of a property line of the site.

Utility	Availability		Cost to bring Service to Site (Ineligible)
1. Electricity	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
2. Fiber Optic Cable	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
3. Telephone	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
4. Gas	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
5. Cable TV	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
6. Storm Sewer	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
7. Sanitary Sewer	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____
8. Water	Yes <input type="checkbox"/>	No <input type="checkbox"/>	♦ \$ _____

Site Development

(All off-site costs beyond 100 foot utility tie-ins are local ineligible expenses, but shall be identified and included in the budget estimate under ineligible site development costs.)

Site Development Costs	Eligible	Ineligible
1. Utilities	♦ \$ _____	♦ \$ _____
2. Cut, Fill & Rough Grading	♦ \$ _____	♦ \$ _____
3. Special Foundation Support (pilings, etc.)	♦ \$ _____	♦ \$ _____
4. Paving, curbs, gutters & sidewalks	♦ \$ _____	♦ \$ _____
5. Retaining Walls	♦ \$ _____	♦ \$ _____
6. Landscaping	♦ \$ _____	♦ \$ _____
7. Signage	♦ \$ _____	♦ \$ _____
8. Lighting	♦ \$ _____	♦ \$ _____
9. Removal of underground tanks	♦ \$ _____	♦ \$ _____
10. Removal of toxic materials	♦ \$ _____	♦ \$ _____
11. Rock removal	♦ \$ _____	♦ \$ _____
12. Traffic signals	♦ \$ _____	♦ \$ _____
Other (Specify):		
13.	♦ \$ _____	♦ \$ _____
14.	♦ \$ _____	♦ \$ _____
15. TOTAL SITE DEVELOPMENT COSTS	♦ \$ _____	♦ \$ _____

FINANCIAL INFORMATION

Normal Public Construction Costs in the Applicant's Area

For projects with new construction only (i.e., constructing a totally new library building or the expansion to an existing building)

Construction Cost Index Approach:

To justify the eligible projected construction cost estimate for new construction, applicants shall complete the following:

1) January 2002 current costs per square foot:

- A. For new facilities: \$202/SF
 B. For square footage added to an existing building, i.e. "expansions": \$238/SF

Multiply the appropriate County Locality Adjustment Factor (2B) by the appropriate new cost per square foot figure (2C) (See section 20436 (c) (1) to obtain the "Locally Adjusted Construction Cost per Square Foot" figure (2D):

2) A. County: _____ B. Adjustment Factor: _____ X C. New Cost/SF: \$ _____/SF =D. \$ _____/SF
 Name of Project County (Select: 1A or 1B)

[Example: Solano 1.07 X \$202/SF = \$216/SF]

3) A. Locally Adjusted Construction Cost Per Square Foot: \$ _____ / SF
 (Re-enter Line 2D)

The "Locally Adjusted Construction Cost per Square Foot" (3A) figure may be increased by 1/5 percent per month for each month from January 1, 2002, through to the estimated mid-point of construction of the project.

Multiply the number of months (4A) times .002 (1/5%) to get an inflation factor (4B). Multiply the inflation factor (4B) times the "Locally Adjusted Construction Cost per Square Foot" figure (4C) to get an "Additional Cost per Square Foot" figure (4D):

4) A. of Months: _____ X .002 = B. Factor: _____ X C. Construction \$/SF: \$ _____/SF =D. \$ _____/SF
 (1/5%) (Re-enter 3A)

[Example: 14 X .002 = .028 X \$216/SF = \$6/SF]

Add the resulting "Additional Cost per Square Foot" figure (5A) to the "Locally Adjusted Construction Cost per Square Foot" figure (5B) to get the "Eligible Projected Construction Cost per Square Foot" figure (5C):

5) A. Cost/SF: \$ _____/SF + B. Construction \$/SF: \$ _____/SF = C. Construction \$/SF: \$ _____/SF
 (Re-enter 4D) (Re-enter 4C)

[Example: \$6/SF + \$216/SF = \$222/SF]

The total "Eligible Projected Construction Cost" for the project is calculated by multiplying the "Eligible Projected Construction Cost per Square Foot" figure (5C) by the total number of square feet of new construction:

6) The Eligible Projected Construction \$/SF: \$ _____/SF
 Multiplied By (Re-enter 5C)

7) The Square Footage of New Construction: _____ SF
 Equals

8) The Eligible Projected Construction Cost: \$ _____

If the projected construction cost estimated by the project architect is lower than the figure in Line 8, the applicant shall use the lower figure as the normal public construction cost in the applicant's area.

A 10% project contingency amount is allowed and is calculated by multiplying the total Eligible Projected Construction Cost by 10%:

9) Eligible Contingency: (10% of Line 8) \$ _____

Comparable Public Construction Approach:

As an alternate to the Construction Cost Index approach to estimating normal construction costs in the applicant's area, the applicant may employ a local public construction cost comparison approach to calculate the Eligible Projected Construction Cost figure. [See section 20436 (c)(3)] List a minimum of three comparable public construction projects that have been bid within the applicant's County within three years of the Board's deadline for application.

Comparable public construction projects are public libraries, community colleges, post offices, museums, courthouses, city halls, auditoriums, convention centers, civic centers, senior citizen centers, public schools, and recreation centers.

The costs listed shall be for construction of the building only and exclusive of any site acquisition, demolition, development, utilities, or landscaping; surface and under building parking; works of art; shelving; furniture; built-in service desks, counters, workstations, or other casework; movable equipment; or architectural and engineering fees.

Project	Date Bid	Construction Cost/SF	Example:
A. _____	_____	\$ _____/SF	\$230/SF
B. _____	_____	\$ _____/SF	\$210/SF
C. _____	_____	\$ _____/SF	\$220/SF
D. _____	_____	\$ _____/SF	
E. TOTAL		\$ _____/SF	\$660/SF

10) Locally Determined Comparable Cost Per Square Foot (\$/SF):

_____ Divided by _____ = \$ _____/SF
 Re-enter Line E # of Projects Locally Determined Comparable Cost per Square Foot

Example: \$660/SF Divided by 3 = \$220/SF

The "Locally Determined Comparable Cost per Square Foot" (10) figure may be increased by 1/5 percent per month for each month from January 1, 2002, through to the estimated mid-point of construction of the project.

Multiply the number of months (11A) times .002 (1/5%) to get an inflation factor (11B). Multiply the inflation factor (11B) times the "Locally Determined Comparable Cost per Square Foot" figure (11C) to get the "Additional Cost per Square Foot" figure (11D):

Number Inflation Locally Determined
 11) A. of Months: _____ X .002 = B. Factor: _____ X C. Comparable \$/SF: \$ _____/SF = D. \$ _____/SF
 (1/5%) (Re-enter 10)

Example: 14 X .002 = .028 X \$220/SF = \$6/SF

Adding the resulting "Additional Cost per Square Foot" figure (12A) to the "Locally Determined Construction Cost per Square Foot" figure (12B) gives the "Eligible Projected Construction Cost per Square Foot" figure (12C):

Additional Locally Determined Eligible Projected
 12) A. Cost/SF: \$ _____/SF + B. Construction \$/SF: \$ _____/SF = C. Construction \$/SF: \$ _____/SF
 (Re-enter 11D) (Re-enter 11C)

Example: \$6/SF + \$220/SF = \$226/SF

The "Eligible Projected Construction Cost" is calculated by multiplying the "Eligible Projected Construction Cost per Square Foot" figure (12C) times the square footage of new construction:

13) The Eligible Projected Construction \$/SF: \$ _____/SF
 Multiplied By (Re-enter 12C)

14) The Square Footage of New Construction: _____ SF
 Equals

15) The Eligible Projected Construction Cost: \$ _____

If the projected construction cost estimated by the project architect is lower than the figure in Line 15, the applicant shall use the lower figure as the normal public construction cost in the applicant's area.

A 10% project contingency amount is allowed and is calculated by multiplying the total Eligible Projected Construction Cost by 10%:

16) Eligible Contingency: (10% of Line 15) \$ _____

Library Project Budget (All projects except Multipurpose Projects)

If there are no costs in any line item below for the project, specify by putting a zero "0" in the blank provided.

Line Items:	<u>Eligible</u>	<u>Ineligible</u>
1) New Construction	\$ _____	\$ _____
2) Remodeling Construction	\$ _____	\$ _____
3) Contingency	\$ _____	\$ _____
4) Appraised Value of Building	\$ _____	\$ _____
5) Appraised Value of Land	\$ _____	\$ _____
6) Site Development	\$ _____	\$ _____
7) Site Demolition	\$ _____	\$ _____
8) Site Permits & Fees	\$ _____	\$ _____
9) Site Option to Purchase Agreement	\$ _____	\$ _____
10) Furnishings & Equipment Costs	\$ _____	\$ _____
11) Signage	\$ _____	\$ _____
12) Architectural & Engineering Fees	\$ _____	\$ _____
13) Construction Cost Estimator Fees	\$ _____	\$ _____
14) Interior Designer Fees	\$ _____	\$ _____
15) Geotechnical/Geohazard Reports	\$ _____	\$ _____
16) Hazardous Materials Consultant Fees	\$ _____	\$ _____
17) Energy Audit, Structural Engineering, Feasibility & ADA Studies	\$ _____	\$ _____
18) Library Consultant Fee	\$ _____	\$ _____
19) Construction/Project Management	\$ _____	\$ _____
20) Other Professional Fees	\$ _____	\$ _____
21) Local Project Administration Costs	\$ _____	\$ _____
22) Works of Art	\$ _____	\$ _____
23) Relocation Costs & Moving Costs	\$ _____	\$ _____
24) Acquisition of Library Materials		\$ _____
25) Other (Specify): _____	\$ _____	\$ _____
26) Other (Specify): _____	\$ _____	\$ _____
27) Other (Specify): _____	\$ _____	\$ _____
28) TOTAL PROJECT COSTS:	\$ _____	\$ _____

Sources of Project Revenue (All projects except Multipurpose Projects)

- 29) State Matching Funds (65% of Line 28¹ Eligible Costs)\$ _____
- 30) Local Matching Funds (Line 28 Eligible Costs minus Line 29)\$ _____
- [Must also equal the total of Lines 31 – 35]*

Sources of Local Matching Funds:

- 31) City\$ _____
- 32) County\$ _____
- 33) Special District\$ _____
- 34) Private\$ _____
- 35) Other (Specify: _____)\$ _____
- 36) Local Credits\$ _____
- Land ²\$ _____
- A&E Fees\$ _____
- 37) Adjusted Local Match [Line 30 minus Line 36]\$ _____
- 38) Supplemental Local Funds [Same as Line 28 Ineligible]\$ _____
- 39) TOTAL PROJECT INCOME:** [Add Lines 29, 30, and 38]\$ _____

¹ Up to a maximum of \$20,000,000² Land credit is not allowed for land acquired by funds from the "Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998" [See Education Code section 19995 (c) which references Part 68 (commencing with section 100400 of the Education Code)]**Projected Library Operating Budget**(New Public Libraries, including Conversion Projects except Multipurpose Projects)

<u>EXPENDITURES</u>	<u>INITIAL START-UP EXPENSES</u>	<u>ANNUAL EXPENSES</u>
1. Salaries/Benefits	\$ _____	\$ _____
2. Facilities Costs	\$ _____	\$ _____
Insurance		
Maintenance (Including Custodial, Trash, Landscaping, etc.)		
Security		
Utilities		
Other (Specify): _____		
3. Equipment & Supplies Costs	\$ _____	\$ _____
Equipment		
Supplies		
4. Materials	\$ _____	\$ _____
Books, AV, Magazines, & Newspapers		
Electronic Services & Subscriptions		
Other Formats		
5. Other Allocations (As applicable to the proposed project)	\$ _____	\$ _____
Administrative/Business Office		
Branch Operations		
Circulation Services		
Facilities & Capital Coordination		
Program Planning		
Technical Services		
Other (Specify): _____		
6. Miscellaneous (Other)	\$ _____	\$ _____
7. TOTAL EXPENDITURES:	\$ _____	\$ _____

Multipurpose Project Budget (With Library Project Budget) (Multipurpose Projects Only)*If there are no costs in any line item below for the project, specify by putting a zero "0" in the blank space provided.*

Line Items:	A Library ¹ Dedicated Eligible	B Library Portion of Common Eligible	C Library Total Eligible	D Library Total Ineligible	E Other ² Total Ineligible
1. New Construction	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
2. Remodeling Construction	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
3. Contingency	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
4. Appraised Value of Building	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
5. Appraised Value of Land	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
6. Site Development	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
7. Site Demolition	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
8. Site Permits & Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
9. Site Option Agreement	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
10. Furnishings & Equipment Costs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
11. Signage	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
12. Architectural & Engineering Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
13. Construction Cost Estimator Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
14. Interior Designer Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
15. Geotechnical/Geohazard Reports	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
16. Hazardous Materials Consultant Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
17. Energy Audit, Structural, ADA, & Engineering Feasibility Studies	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
18. Library Consultant Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
19. Construction/Project Management	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
20. Other Professional Fees	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
21. Local Project Administration Costs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
22. Works of Art	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
23. Relocation Costs & Moving Costs	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
24. Acquisition of Library Materials				\$ _____	\$ _____
25. Other (Specify): _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
26. Total Project Costs:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

¹ Library means that portion of the project that provides space for the delivery and support of public library direct services, including joint use school library services (co-location or joint venture).² "Other" uses means any other space that does not provide for the delivery and support of public library direct services.

Sources of Multipurpose Project Revenue (Multipurpose Projects Only)27. State Matching Funds (65% of Line 26 Total Eligible Costs¹)\$ _____

28. Local Matching Funds\$ _____

[Column C, Line 26 minus Line 27. Must also equal the total of Lines 29 – 33]

Sources of Local Matching Funds:

29. City\$ _____

30. County\$ _____

31. Special District\$ _____

32. Private\$ _____

33. Other (Specify: _____)\$ _____

34. Local Credits\$ _____

Land²\$ _____
A&E Fees\$ _____

35. Adjusted Local Match (Line 28 minus Line 34)\$ _____

36. Supplemental Local Funds\$ _____

(Same as Line 26 Library (D) and Other (E) Total Ineligible)

37. **TOTAL PROJECT INCOME** [Add Lines 27, 28 and 36]\$ _____¹ Up to a maximum of \$20,000,000² Land credit is not allowed for land acquired by funds from the "Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998" [See Education Code section 19995 (c) which references Part 68 (commencing with section 100400 of the Education Code)]**Projected Library Operating Budget (Multipurpose New Construction and Conversion Projects Only)****EXPENDITURES****1. Salaries/Benefits**INITIAL
START-UP
EXPENSES

\$ _____

ANNUAL
EXPENSES

\$ _____

2. Facilities Costs

\$ _____

\$ _____

Insurance
Maintenance (Including Custodial, Trash, Landscaping, etc.)
Security
Utilities
Other (Specify): _____**3. Equipment & Supplies Costs**

\$ _____

\$ _____

Equipment
Supplies**4. Materials**

\$ _____

\$ _____

Books, AV, Magazines, & Newspapers
Electronic Services & Subscriptions
Other Formats**5. Other Allocations** (As applicable to the proposed project)

\$ _____

\$ _____

Administrative/Business Office
Branch Operations
Circulation Services
Facilities & Capital Coordination
Program Planning
Technical Services
Other (Specify): _____**6. Miscellaneous (Other)**

\$ _____

\$ _____

7. TOTAL EXPENDITURES:

\$ _____

\$ _____

Financial Capacity (New Construction and Conversion Projects Only)

Applicants with new public library projects shall describe their financial capacity to open and maintain operation of the proposed library including anticipated revenue sources for library operations support.

PROJECT TIMETABLE

Provide the timetable for the proposed project.

Show estimated dates of completion for future activities, as well as actual dates for activities already completed.

<u>ACTIVITY</u>	<u>DATE</u>
1. Planning and Land Use Permits Obtained (If Applicable)	♦ _____
2. Site Acquired (Obtain Possession by Purchase, Donation or Lease)	♦ _____
3. Schematic Plans Completion	♦ _____
4. Design Development Plans Completion	♦ _____
5. Working Drawings (90%) Completion	♦ _____
6. Construction Documents Completion	♦ _____
7. Project Advertised for Bids	♦ _____
8. Start of Construction	♦ _____
9. Estimated Mid-Point of Construction	♦ _____
10. Completion of Construction	♦ _____
11. Opening of Library Building to the Public	♦ _____
12. Final Fiscal & Program Compliance Review Completed	♦ _____

APPLICATION CERTIFICATION

SIGNATURES

The parties below attest to and certify the accuracy and truthfulness of the application for California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000 funds. If the application is successful, the applicant agrees to execute the project on the basis of the application data provided herein including all supporting documents.

AUTHORIZED OFFICIAL OF THE APPLICANT JURISDICTION

Signature of Mayor, Chairperson of Board of Supervisors, or Head of District, authorized to make application for the local jurisdiction.

↓ _____ Signature	↓ _____ Date
↓ _____ Name (type)	↓ _____ Title (type)

LIBRARY DIRECTOR OF THE OPERATING LIBRARY JURISDICTION

I hereby affirm that the library jurisdiction, for which I am the administrative agent, approves of the application and will operate the facility as a public library after its completion.

↓ _____ Signature	↓ _____ Date
↓ _____ Name (type)	↓ _____ Title (type)

- ☐ **SUBMIT COMPLETED APPLICATION FORM AND SUPPORTING DOCUMENTS ACCORDING TO INSTRUCTIONS IN SECTION 20440**
- ☐ **MAIL APPLICATION AND SUPPORTING DOCUMENTS TO:**

**Bond Act Fiscal Officer
Office of Library Construction
1029 J Street, Suite 400
Sacramento, CA 95814-2825**

Appendix 2

Required Elements for Joint Use Cooperative Agreements

As required in section 20440(d)(1), applicants with joint use projects shall submit a copy of the cooperative agreement between the public library and the public school district(s) that includes the following elements:

1. A definition of the roles and responsibilities of each party with respect to funding, staffing, supervision, operation, management, and others as applicable.
2. A description of the joint library services and how they will be provided.
3. The library hours of service for the public and for students.
4. The number and classifications of staff members.
5. The use of volunteers, if any.
6. Identification of the location of the proposed joint use project.
7. Ownership of the site, facility, furnishings, equipment, and library materials.
8. All sources and uses of funding.
9. Responsibility for facility operation, maintenance, and management.
10. Review and modification process for the conditions of the agreement.
11. Field Act applicability to the project:
 - a. A statement that the project will or will not be subject to the Field Act.
 - b. The rationale for the determination regarding the Field Act applicability.
12. A 20-year commitment to providing joint use library services consistent with the intent of the cooperative agreement.
13. Acknowledgment and incorporation of Education Code section 19999 and section 20440(e)(3)(G) of these regulations which requires the provision of public library direct services for 40 years.

Appendix 3

Community Library Needs Assessment Components

As required in section 20440(d)(2), all applicants shall submit a copy of a Community Library Needs Assessment that demonstrates the need for the project and describes its relationship to the overall public library jurisdiction. The needs assessment shall include, but is not limited to, the following components:

1. Table of Contents giving page numbers for each division and each required Executive Summary.
2. Overall Executive Summary for the Community Library Needs Assessment, not to exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.
 - a. The Executive Summary shall provide a narrative overview of the findings of the Community Library Needs Assessment, citing relevant community demographic information.
 - b. The Executive Summary for joint use projects shall also include a description of the K-12 student population that will be served by the joint use project and their needs.
3. Needs assessment methodology
 - a. Applicants shall provide an Executive Summary of the needs assessment methodology not to exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.
 - b. Applicants shall describe how they involved residents, community organizations, special interest groups, special populations including those with disabilities, local agencies, and others, as applicable, in determining the needs of the residents of the library service area and the need for a new or improved facility.

c. Applicants with joint use projects shall also describe how the school and/or school district was involved in planning the joint use facility and services and include a description of the involvement of the following school representatives, as applicable: superintendents, principals, school board members, teachers, certified library media teachers, parents, students, and any school support organizations.

d. Applicants shall describe methods used to elicit community input, such as surveys, focus groups, community meetings, and other methods used.

4. Community Analysis with Executive Summary

Applicants shall describe and analyze relevant factors that affect the library goals, objectives, and Library Plan of Service for the residents in the project service area. Factors include, but are not limited to, the following:

a. Governmental agencies

Identify governmental agencies that will have an influence on the planning of the facility and describe the nature of the relationship. Identify key individuals in the government agencies and describe their roles in the project.

b. School agencies

Identify public and private schools within the district that will be served by the proposed project and their service needs, including whether or not a school library exists.

c. Community organizations

Identify community organizations that will be served by the proposed project, and describe their service needs.

d. Demography

Applicants shall obtain the following demographic information from federal, state, or regional sources, and identify the source.

(1) Population characteristics Describe the service area population, including, but not limited to, its current size, projected growth, and demographic characteristics to the extent such information is available for the project service area.

(2) Data not available for the specific project service area

If the information is unavailable for the project service area, the applicant may utilize the demographic information for local jurisdictions in which the project is located.

(3) Demographic data and analysis

Include the following data for the project service area and an analysis of the data:

- The average California Academic Performance Index (API) for public schools in the library service area.
- Poverty rate.
- Per capita income.
- Literacy rate.
- Unemployment rate.
- Population composition by age.
- Population by occupation.
- Median property value.
- Population by educational level.
- Others (optional).

This information shall be compared to the norm for the state and nation, to the extent such information is available.

Applicants shall include an Executive Summary of the overall findings of the community analysis. The Executive Summary shall not exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.

5. Analysis and discussion of community characteristics.

6. Analysis of library service needs with Executive Summary.

Applicants shall provide an in-depth analysis of the library service needs based on the findings of the Community Library Needs Assessment.

Applicants shall include an Executive Summary describing how the demographic characteristics, and any other factors, will affect the Library Plan of Service. The Executive Summary shall not exceed two,

single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.

7. Service limitations of existing library facilities with Executive Summary

If existing facilities will be replaced or improved, applicants shall describe how the existing facilities are inadequate in providing the types of services needed for residents of the project service area.

Applicants shall describe the limitations and constraints of services provided in the existing public library facilities that will be replaced or improved for categories a–f below. For co-located joint use projects, also provide the information for the school library.

- a. Collections.
- b. Readers' seating.
- c. Staff offices, workstations, and visual supervision.
- d. Technology.
- e. Meeting rooms.
- f. Special purpose (miscellaneous).

Applicants shall provide descriptions of the types of library services that are needed but currently unavailable in the existing public library buildings. For joint-use projects, both co-located and joint venture, also address school library services that are needed but currently unavailable.

Applicants shall provide an Executive Summary which will give a narrative overview of the service limitations of the existing facility based on categories a–f listed above, not to exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter. If more than one existing facility is being replaced or improved, provide a separate summary for each facility. For co-located projects, provide a separate summary of the service limitations of the school library.

8. Physical limitations of existing library facilities with Executive Summary

If existing facilities will be replaced or improved, applicants shall provide an analysis of the physical limitations of existing public library buildings for the following categories. For co-located joint-use projects, if there are existing facilities that will be replaced or improved, also provide an analysis of the physical limitations of the existing school libraries for the same categories

- a. Structural.
- b. Energy conservation.
- c. Health and safety.
- d. Disabled access.
- e. Acoustics.
- f. Space flexibility/expandability.
- g. Functional spatial relationships.
- h. Site.
- i. Any other considerations.

Applicants shall provide an Executive Summary which will give a narrative overview of the physical limitations of the existing library facility based on categories a–i listed above, summarizing how the facility is inadequate, hazardous, ineffective, or inefficient. If more than one existing facility is being replaced or improved, provide a separate summary for each facility. The summary shall not exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter. For co-located projects, provide a separate summary of the physical limitations of the school library.

9. Space Needs Assessment

Provide a listing of the assignable square footage allocations needed for the proposed project and an analysis of how they were determined for the following categories:

a. Library Collections

(1) Describe the current status of the library collections and capacity of the proposed building to house the collections in the future.

(2) Discuss collection development and provide justification for the size and types of proposed collections based on demographics, previous as well as anticipated purchasing patterns, verifiable library use statistics, and any standards or guidelines used.

(3) Provide a summary of all projected collections to be housed in the proposed library, including the size, format, category, and subcategory of each collection. Include the volumes per linear foot and assumptions regarding the percentage of collection in circulation.

(4) Provide a chart showing the calculations used to translate each collection subcategory into space needs. Provide the conversion factors used in the calculations such as type of shelving or storage unit, the number of volumes per shelving or storage unit, the number of shelving or storage units needed to house the collection, the number of assignable square feet per shelving or storage unit, and the amount of assignable square footage needed to house the shelving or storage units.

b. Readers' Seats

(1) Describe the number, type, and allocation of all patron seating needed to meet the requirements of the proposed facility.

(2) Identify standards utilized in determining the amount of seating.

(3) Describe the calculations used to translate the various types of readers' seating into space needs, providing the conversion factors used to calculate the required assignable square footage.

c. Technology

(1) Identify and describe the number and types of technology equipment (computers, printers, servers, routers, other computer peripherals, and telecommunications equipment, etc.) and workstations required to support the operation of the proposed facility.

(2) Describe the calculations used to translate the technology equipment needs into space needs, providing the conversion factors used to calculate the assignable square footage needed to accommodate the equipment and workstations.

d. Staff Offices and Workstations

(1) Describe the projected staff organization and provide any standards used in determining the size of the projected staff.

(2) Provide the resulting number of staff workstations (public, office, and workroom) needed to provide the desired service level in the proposed facility, and indicate the proposed allocation of staff workstations.

(3) Describe the calculations used to translate the office and workstation needs into space needs, providing the conversion factors used to calculate the assignable square footage to house the various types of workstations.

e. Meeting Room Requirements

(1) Describe the number and capacity of meeting rooms for the proposed library. Indicate how this space supports the library's plan of service and provide an allocation of the space.

(2) Describe the calculations used to determine the amount of meeting room assignable square footage required, providing conversion factors used to calculate the assignable square footage needed for the various types of meeting room seats.

f. Special Purpose: Miscellaneous Space Needs

(1) Describe any other miscellaneous spaces or equipment that have been identified, indicating their intended use and how they support the library's plan of service and providing an allocation of space.

(2) Describe the calculations used to determine the amount of special purpose assignable square footage required, providing the conversion factors used to calculate the assignable square footage needed for each type of furnishing and equipment or space.

g. Non-Assignable Space

Provide the assumptions made with respect to the percentage of non-assignable square footage as well as the amount of non-assignable square footage.

Appendix 4

Library Plan of Service Components

As required in section 20440(d)(3), all applicants shall submit a copy of a Library Plan of Service that highlights major services to be provided and how they respond to the needs identified in the Community Library Needs Assessment. The plan shall include, but is not limited to, the following components:

1. Library Plan of Service

Applicants shall submit a Library Plan of Service that describes how the needs of the residents in the library service area, as identified in the Community Library Needs Assessment, will be met by the proposed project.

The Library Plan of Service shall include:

2. Executive Summary

Provide an Executive Summary of the Library Plan of Service, highlighting major services to be provided and how they respond to the needs identified. The Executive Summary shall not exceed two typed pages.

3. Mission statement

a. Describe the mission of the public library.
b. For co-located joint use projects, also include the school's mission statement for providing library services to their students.

4. Goals and objectives

Describe the goals, objectives, roles, and service indicators for library services for the library project service area and how they respond to the information gathered in the Community Library Needs Assessment.

5. Types of services to be offered

a. All applicants

Provide a detailed description of the types of services that will be offered as well as an implementation plan. Describe staffing, programming, hours of service, collections and any special services along with other relevant community services or partnerships such as adult education, senior citizen, literacy and after school programs, etc. Indicate how the overall plan of service meets the needs of the residents of the library service area.

b. Co-located joint use projects

Applicants with co-located joint use projects shall describe how the project's Library Plan of Service will meet the needs of the K-12 student population identified for this project. Describe how this service is different from what would be provided for the proposed project's clientele if there were no joint use cooperative agreement.

c. Joint venture projects

Applicants with joint venture projects, describe how the project's Library Plan of Service will meet the needs of the K-12 student population identified for this project. Describe why the specific service(s) (home-work center, career center, family literacy center, computer center, subject-specialty learning center, shared electronic and telecommunication library services, or other collaborative library services that directly benefit K-12 students) was selected to meet the student needs.

6. Jurisdiction-wide service

Describe how the proposed project fits into the overall plan of service for the library jurisdiction.

7. Technology

a. All applicants shall describe how the Library Plan of Service integrates appropriate electronic technologies in response to the service needs identified in the Community Library Needs Assessment and shall include a description of how information technologies will be implemented to integrate, support, or extend the delivery of library services to the residents of the service area.

b. Applicants with joint use projects shall also describe how electronic technologies will be used to meet the needs of K-12 students as identified in the Community Library Needs Assessment.

c. The applicant shall provide an Executive Summary which will give a narrative overview of how the Library Plan of Service integrates appropriate electronic technologies in response to the service needs identified in the Community Library Needs Assessment. Include a description of how information technologies will be implemented to integrate, support, or extend the delivery of library services for the proposed project now and in the future. Joint use project applicants shall also describe how electronic technologies will be used to meet the needs of K-12 students as identified in the Community Library Needs Assessment. The summary shall not exceed two, single-spaced typed pages. Limit type size to no smaller than 11 point if using a computer, or 12 pitch (elite) if using a typewriter.

Appendix 5

Library Building Program Components

As required in section 20440(d)(4), all applicants shall submit a copy of a Library Building Program that demonstrates how the Library Plan of Service will be implemented in the project. The building program shall include, but is not limited to, the following components:

1. Table of contents with page numbers for each division
2. Overview and introduction

Applicants shall:

a. Provide a general introduction to the project, including an overview of the need for the project and a time schedule for the project.
b. Discuss the relationship of the library building program to the architectural design process.
c. Identify and discuss the roles and interrelationships of the library building team members.

3. General Requirements of the Library Building

Applicants shall provide a general narrative for the entire library that addresses the following items, as appropriate:

- a. Occupancy by staff and patrons.
- b. Type and size of collections.
- c. Flexibility and expandability.
- d. Staff efficiency.
- e. Energy efficiency.
- f. Fenestration.
- g. Space finishes.
- h. Access for the disabled.
- i. Acoustics.
- j. Environmental conditions (HVAC).
- k. Illumination.
- l. Power and data communication requirements.
- m. Security systems.
- n. Signs.
- o. Audio-visual systems.
- p. Visual supervision.
- q. Master list of furniture and equipment.

4. Spatial Relationships

Applicants shall describe the relationships of the various spaces in the proposed library through the use of a narrative, spatial diagram, or matrix.

5. Summary of Facility Space Requirements

Applicants shall provide a summary of the spaces in the proposed library, showing the name of each space and its respective assignable square footage.

6. Space Descriptions

Applicants shall provide a description of each individual space utilizing the following items as applicable:

- a. Assignable square footage.
- b. Occupancy by staff and patrons.
- c. Type and size of collections.
- d. Functional activity description.
- e. Spatial relationships.
- f. Flexibility and expandability.
- g. Fenestration.
- h. Space finishes.
- i. Access for the disabled.
- j. Acoustics.
- k. Environmental conditions (HVAC).
- l. Illumination.
- m. Power, data, and audiovisual communications requirements.
- n. Security requirements.
- o. Visual supervision.
- p. Signs.
- q. A listing of required furniture and equipment.

7. Preliminary project budget

Applicants shall provide a preliminary capital outlay project budget for the proposed facility.

Appendix 6

Requirements for Site Lease and Lease-Purchase Agreements

An applicant that is placing a proposed project on a site secured by a lease or a lease-purchase agreement shall conform to the following requirements:

1. Public Agency Owner

If the lessor is a public agency:

a. The agreement shall provide that the applicant, as lessee, shall have full and undisturbed access to the site at all times to build and operate a public library during the length of the lease.

b. The term of the agreement shall be a minimum of 40 years following Substantial Completion of the project unless ownership shall otherwise transfer to the lessee before this time period has expired.

c. The title report shall indicate that there are no superior liens (deeds of trust or other rights) in the leased property.

d. The agreement shall provide that any subsequent encumbrance on the property (e.g. deed of trust) or sale of the property must be subject to the lease or lease-purchase agreement.

e. Either full rental shall be paid in a lump sum up front or the lessee shall covenant to budget for rent each year.

f. The lessor's remedies for any default by the lessee, including failure to pay rent, cannot include cancellation of the lease, retaking of the property, or eviction of the lessee. The only remedy is suit for rent or specific performance to remedy any specific breach.

g. The lessor shall demonstrate that the agreement is legally authorized and has been properly approved and executed by the lessor and is enforceable against the lessor. Lessor shall provide a legal opinion to this effect, and the applicant shall submit the legal opinion with the application.

h. The applicant, as lessee, shall demonstrate that the agreement is legally authorized and has been properly approved and executed and is enforceable against the lessee. The applicant shall submit a legal opinion to this effect with the application.

2. Private Owner

If the lessor is a private entity, in addition to the items in 1 above, the applicant shall submit a legal opinion with the application that either:

a. The lessor is an entity which cannot enter bankruptcy proceedings under the Federal Bankruptcy Code, or

b. The lease or lease purchase agreement cannot be rejected by the lessor in the event of bankruptcy.

§ 20442. Submission of Applications and Grant Awards.

(a) Submission of applications; deadlines for application cycles and grant amounts; late or incomplete application submissions

(1) Application location – Submit applications for each funding cycle to:

BOND ACT FISCAL OFFICER
OFFICE OF LIBRARY CONSTRUCTION
1029 J STREET, SUITE 400
SACRAMENTO, CA 95814-2825

(2) Funding cycles

(A) First funding cycle

1. The application deadline for the first funding cycle is 5:00 p.m. on June 14, 2002.

2. In the first funding cycle the Board will award grants totaling no more than \$150,000,000.

(B) Second funding cycle

1. The application deadline for the second funding cycle is 5:00 p.m. on March 28, 2003.

2. In the second funding cycle the Board will award grants totaling no more than \$110,000,000.

(C) Third funding cycle

1. The application deadline for the third funding cycle is 5:00 p.m. on January 16, 2004.

2. All remaining grant funds will be awarded in the third funding cycle.

(3) Late applications not considered

If an application, or documents required to support the application, are not received by the Board's deadline for application, the application shall not be considered by the State Librarian or Board for grant approval during the funding cycle.

(4) Incomplete applications not considered

If applications, or documents required to support the application, are incomplete, the application shall not be considered by the State Librarian or Board for grant approval during the funding cycle.

(b) Corrections to the project application

If, due to oversight or clerical error, the information provided by the applicant during the application process proves to be inaccurate, the State Librarian, at his or her discretion, may make minor adjustments to correct obviously inaccurate information in applications.

(c) One application per project

Applicants may submit only one application for each proposed project during any single application cycle.

(d) Resubmission of a project application

Applicants may resubmit project applications that were not funded in one application cycle for a subsequent funding cycle by submitting a complete project application.

(e) Changes in projects after grant award

(1) If there are proposed changes to the project after grant award that significantly modify the project, applicants shall submit the proposed changes to the State Librarian for review and authorization.

(2) The State Librarian has the sole authority to determine if a change is significant.

(3) If the State Librarian does not approve the change, the grant recipient may appeal the State Librarian's decision to the Board.

(4) The decision of the Board regarding a change in the project is final and binding.

(f) Value determined by mutual agreement

For purposes of Education Code section 19999(c) regarding the return of State grant funds, determining the value of the facility and land by mutual agreement shall mean by an appraisal prepared by an independent certified appraiser as specified in section 20436(a).

NOTE: Authority cited: Section 19992, Education Code, Reference: Sections 19988, 19989, 19992, 19993, 19995, 19996, 19997, 19998 and 19999, Education Code.

HISTORY

1. New section filed 12-5-2001; operative 1-4-2002 (Register 2001, No. 49).

§ 20444. State Payments; Fiscal and Program Compliance Review.

(a) Frequency of State grant payments; original signatures

(1) The State Librarian shall authorize State grant payments to the grant recipient on a periodic reimbursement basis. Payments shall be made no more frequently than on a monthly basis.

(2) Payment requests shall state that the reimbursement request is being made only for eligible project costs.

(3) Payment requests shall be submitted with an original signature of the grant recipient's fiscal officer or that officer's designee.

(b) Final State grant payment

The final State payment of 10% will be made when:

(1) All eligible project costs have been paid.

(2) The grant recipient certifies building completion by providing a compliance letter from the local building official verifying:

(A) The date of Substantial Completion of the project.

(B) The building was completed in accordance with the approved plans and specifications.

(C) The building has been approved for occupancy.

(D) Book stack installation has been completed.

(3) The grant recipient shall submit evidence that the State's interest in the building and the land has been recorded in the title record [see Education Code section 19999].

(4) Certified Public Accountant (CPA) review and audit submission
(A) CPA review

Following completion of the project, the grant recipient shall submit a final fiscal and program compliance review performed by an independent CPA utilizing standards established by the American Institute of Certified Public Accountants. To be considered independent, the CPA shall not be an employee of the grant recipient or the grant recipient's library service provider. The CPA review shall be submitted to the State Librarian prior to release of the final 10% of State project funds.

(B) Audit Submission with the CPA review

1. In addition to (A), grant recipients who are subject to the Single Audit Act, Title 31 United States Code sections 7501 through 7507, shall submit a copy of their most recent Single Audit report to the State Librarian with the CPA review.

2. Recipients who are not subject to the Single Audit Act shall submit a copy of their most recent jurisdictional audit report with the CPA review.

(5) CPA Review deadline

(A) Grant recipients shall submit the CPA review no later than 18 months following Substantial Completion of the construction contract for the project.

(B) If a CPA review indicating fiscal and program compliance is not received within 18 months following Substantial Completion, the State may hire a CPA to conduct the review. The final 10% of grant funds shall be reduced by the cost of the CPA review.

NOTE: Authority cited: Section 19992, Education Code. Reference: Sections 19989, 19990 and 19999, Education Code.

HISTORY

1. New section filed 12-5-2001; operative 1-4-2002 (Register 2001, No. 49).

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Title 5. Education

Division 3. Teachers' Retirement System

Vol. 6

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Division 3. Teachers' Retirement System

Chapter 1. Teachers' Retirement System

Article 1. Definitions

§ 20500. Definitions.

As used in this chapter:

(a) "Accredited" means official recognition of an educational institution, by an authorized public authority or other generally recognized authority, that such institution maintains standards which qualify its graduates for admission to higher or more specialized institutions or for professional or trade practices.

(b) "Certificated" means the holding by a person of a credential which is required by the laws of the state to be held as a condition to valid employment in the position in which such person is employed.

(c) "Chairperson" means Chairperson of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.

(d) "Credential," "credentials" and "certificate" mean any life diploma, credential, certificate, or other document provided for by, and issued pursuant to the laws of the state which authorize service in the public school system of this state.

(e) "Emergency meeting" means a meeting of the Teachers' Retirement Board held because of an unforeseen emergency condition.

(f) "Regular meeting" is a meeting held in accordance to a schedule of meetings stating the dates and places of the meetings adopted by the Teachers' Retirement Board.

(g) "Special meeting" is a nonemergency meeting held by the Teachers' Retirement Board at a time other than when a regular meeting is held for considering and acting upon such matters, and no others, as are included in the notice of special meeting.

(h) "Unforeseen emergency condition" means a circumstance or a combination of circumstances which may result in monetary loss to the system, or otherwise impair the integrity or operation of the system, or result in unconscionable hardship or monetary loss of a member, disabliant or retirant unless the Teachers' Retirement Board acts without being required to provide at least seven days' notice before acting.

(i) "Vice Chairman" means the vice chairman of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.

NOTE: Authority cited: Sections 22202, 22209 and 22210, Chapter 4, Division 10, Education Code. Reference: Sections 22216 and 22224, Education Code.

HISTORY

1. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42). For prior history, see Register 74, No. 33.
2. Amendment of section and NOTE filed 5-6-77; effective thirtieth day thereafter (Register 77, No. 19).

Article 2. Rules of Procedure

§ 20510. Meetings.

The Teachers' Retirement Board shall meet at least once every calendar quarter at such times as it may determine. The meetings shall be presided over by a chairperson elected by the Teachers' Retirement Board from among its members. In the event of absence from a meeting of the chairperson, the vice chairperson, elected by the Teachers' Retirement Board from among its members, shall act as presiding officer and perform all other duties of the chairperson.

HISTORY

1. Renumbering from Section 20500.1 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).

2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).

§ 20511. Notice of Regular and Special Meetings.

NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.

HISTORY

1. Amendment and renumbering from Section 20500.4 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
2. Amendment filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).
3. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).
4. Repealer filed 4-19-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 16).

§ 20512. Emergency Meetings.

NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.

HISTORY

1. Amendment and renumbering from Section 20500.2 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
2. Amendment filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).
3. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).
4. Repealer filed 4-19-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 16).

§ 20512.5. Special Meetings.

NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.

HISTORY

1. Amendment and renumbering from Section 20512 filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).
3. Repealer filed 4-19-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 16).

§ 20513. Quorum; Required Vote.

The quorum of the Teachers' Retirement Board shall consist of the majority of the Board members. In determining whether a quorum is present, vacant positions on the Teachers' Retirement Board shall not be considered. The concurrence of the majority of the members present shall be necessary to the validity of any of the Teachers' Retirement Board's acts.

NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.

HISTORY

1. Renumbering from Section 20500.5 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).
3. Amendment filed 4-19-85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 16).

§ 20514. Secretary; Duties.

The chief executive officer shall act as secretary of the Teachers' Retirement Board. He shall have charge of all of its correspondence and shall keep a record of its proceedings.

HISTORY

1. Amendment and renumbering from Section 20500.3 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
2. Amendment filed 10-15-76; effective thirtieth day thereafter (Register 76, No. 42).

Article 3. General Provisions of Administration

§ 20520. Authority of Chief Executive Officer.

The chief executive officer of the system is authorized and empowered to correct a member's record and to approve, disapprove, modify or otherwise act on the retirement of members of the system for service or

for qualifying for and receiving a disability allowance, and to fix their retirement allowances or disability allowances; and to approve, disapprove, modify or otherwise act on any application for any other benefit or refund and for granting service credit; and to determine whether persons who have qualified for and are receiving disability allowances have recovered from the disabilities which qualified them for disability allowances and to determine the eligibility of persons for family allowances. Payment of retirement allowances, disability allowances, family allowances, refunds or other benefits may be made on the action of the chief executive officer.

The chief executive officer is authorized to enter into contracts on behalf of the Teachers' Retirement Board and to perform other acts necessary in the administration of the system. The Teachers' Retirement Board may by resolution adopted at any meeting and recorded in the minutes of the meeting, delegate authority to him to perform any act within its own power to perform.

Any member, former member, disablitant, retirant, beneficiary or other person dissatisfied with the action of the chief executive officer, other than his referral of the matter to hearing, with respect to payment of allowances, benefits or refunds or with respect to crediting service or correction of records, has the right to appeal such action to the Teachers' Retirement Board by filing a written notice of such appeal and the reason therefor at the office of the system within a reasonable time from the date of the mailing to him by the chief executive officer at his most recent address of record with the system of written notice of the determination or action taken and right of appeal therefrom. For the purpose of defining a "reasonable time" ninety (90) days is deemed to be a reasonable time. If no notice of appeal as herein provided is made within the time prescribed, such determination or action shall be final.

NOTE: Authority cited: Sections 22202, 22203, 22204, 22209, 22210, 22216 and 22224, Education Code.

HISTORY

1. Amendment of NOTE filed 5-6-77; effective thirtieth day thereafter (Register 77, No. 19). For prior history, see Register 76, No. 42.

§ 20521. Time Required for Credit.

The following members who are employed by the day or by the hour shall have 175 days or 1,050 hours as the basis for determining their earnable compensation for a school year:

- (a) Those who are employed as substitutes but who can not be paid for school holidays;
- (b) All others who are normally not employed for more than 175 days or 1,050 hours.

Full-time day service, or full-time service as performed by members whose normal tours of duty extend throughout the school term (hereby defined for purposes of this retirement system as being the period beginning with the day upon which school commences and ending with the day upon which school closes in the same year) shall be performance of assigned duties for six hours per day for five days per week, or the equivalent thereof. Performance of assigned duty for a shorter period than six hours for five days per week, or the equivalent thereof, such as but not limited to performance of duties for four hours per day for five days per week, but for which such member receives compensation in the same amount as he would have received if such performance were six hours per day for five days per week, shall nevertheless be counted as a full-time day or full-time service.

HISTORY

1. Renumbering from Section 20502 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 68, No. 34.

§ 20522. Funds Disbursed According to Claims.

HISTORY

1. Amendment and renumbering of Section 20503 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 64, No. 11.
2. Repealer filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20523. Proof of Death.

HISTORY

1. Repealer of former Section 20504 and new section filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 60, No. 13.
2. Repealer filed 1-29-75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20524. Statement of Service and Claims.

HISTORY

1. Amendment and renumbering from Section 20505 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 1-29-75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20525. Statement of Account.

HISTORY

1. Amendment filed 5-31-60; effective thirtieth day thereafter (Register 60, No. 13).
2. Amendment and renumbering from Section 20506 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
3. Repealer filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20526. Required Days of Service for Sick Leave Credit.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22216 and 22224, Chapter 4, Division 10, Education Code. Reference: Section 22720, Education Code.

HISTORY

1. New section filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33). For history of former section see Register 73, No. 27).
2. Amendment of NOTE filed 5-6-77; effective thirtieth day thereafter (Register 77, No. 19).
3. Change without regulatory effect repealing section filed 10-24-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20527. Deductions; Local Retirement Systems.

HISTORY

1. Repealer filed 7-6-73; effective thirtieth day thereafter (Register 73, No. 27). For prior history, see Register 70, No. 35.

§ 20528. Deposit of Contributions.

HISTORY

1. Repealer filed 7-6-73; effective thirtieth day thereafter (Register 73, No. 27). For prior history, see Register 70, No. 35.

§ 20529. Remitting Contributions and Report.

HISTORY

1. Repealer filed 7-6-73; effective thirtieth day thereafter (Register 73, No. 27). For prior history, see Register 70, No. 35.

§ 20530. Termination of Employment.

HISTORY

1. Repealer of former Section 20510 and new section filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35). For history of former section, see Register 26, No. 3.
2. Repealer filed 1-29-75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20531. Application for Retirement.

NOTE: Authority cited: Sections 13864 and 14304, Education Code.

HISTORY

1. New section filed 11-20-63 as an emergency; effective upon filing (Register 63, No. 23).
2. Certificate of Compliance—Section 11422.1, Government Code, filed 2-19-64 (Register 6, No. 4).
3. Renumbering from Section 20510.1 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35).
4. Repealer filed 1-29-75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20532. Repayment of Withdrawn Contributions.

HISTORY

1. Repealer filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33). For prior history, see Register 70, No. 5.

§ 20533. Option to Repay Withdrawn Contributions.

HISTORY

1. Amendment and renumbering from Section 20512 filed 8-28-70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 65, No. 18.
2. Repealer filed 8-14-74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20534. Deposit of Retirement Annuity Fund Contributions.

HISTORY

1. Amendment and renumbering of Section 20513 filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 59, No. 18.
2. Repealer filed 8–14–74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20535. Election to Pay Contributions.

NOTE: Authority cited: Sections 13872 and 13879, Chap. 4, Div. 10, Education Code.

HISTORY

1. New section filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20536. Election to Redeposit.

HISTORY

1. New section filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20537. Part-Time Employee—Disability Retirement.

HISTORY

1. New section filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 8–14–74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20538. Adjustment of Final Compensation.

NOTE: Authority cited: Sections 22202, 22204, 22209, 22210, 22216 and 22224, Education Code. Reference: Section 22127, Education Code.

HISTORY

1. New section filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5). For history of former section, see Register 74, No. 33.
2. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
3. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20539. Full-Time Employment to Qualify for Reduced Workload.

NOTE: Authority cited: Sections 22209, 22210, 22211 and 22216, Education Code. Reference: Sections 22214, 22224, 22724 and 44922, Education Code.

HISTORY

1. New section filed 12–19–75; effective thirtieth day thereafter (Register 75, No. 51). For history of former section, see Register 74, No. 33.
2. Amendment of section and NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
3. Repealer filed 4–19–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 16).

§ 20540. Definitions of “Full-Time Student” and “Educational Institution.”

NOTE: Authority cited: Sections 13872, 13879, 13885 and 13896, Education Code.

HISTORY

1. New section filed 7–7–72; effective thirtieth day thereafter (Register 72, No. 28).
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20541. “Family or Disability Benefits.”

NOTE: Authority cited: Sections 13872, 13879, 13885 and 13896, Education Code.

HISTORY

1. New section filed 7–7–72; effective thirtieth day thereafter (Register 72, No. 28).
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20542. Verification of Date of Birth.

NOTE: Authority cited: Sections 13872, 13879, 13848 and 13899, Education Code. Reference: Sections 13899, 13930, 13931, Education Code.

HISTORY

1. New section filed 10–5–72; effective thirtieth day thereafter (Register 72, No. 41).

2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20543. Permissive Payments to System to Obtain Additional Service Credit.

NOTE: Authority cited: Sections 22145, 22202, 22210 and 22226, Education Code. Reference: Sections 22716, 22802, 22803, 22900, 22901, 22902, 22903, 22904, 23200, 23201, 23202 and 23203, Education Code.

HISTORY

1. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19). For prior history, see Register 76, No. 42.
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20543.5. Mandatory Payments to System by Member, Beneficiary or Retirant.

NOTE: Authority cited: Sections 22202, 22204, 22209, 22210, 22216 and 22224, Education Code. Reference: Section 23008, Education Code.

HISTORY

1. New section filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).
2. Amendment filed 10–15–76; effective thirtieth day thereafter (Register 76, No. 42).
3. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
4. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20544. Determination of Member's Final Compensation.

NOTE: Authority cited: Sections 22145, 22202, 22209, 22210, 22216, 22224 and 22226, Chapter 4, Division 10, Education Code. Reference: Sections 22127, 22145, 22400 and 22401, Education Code.

HISTORY

1. New section filed 11–22–72; effective thirtieth day thereafter (Register 72, No. 48).
2. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
3. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).
4. Repealer and new section filed 3–8–79; designated effective 4–15–79 (Register 79, No. 10).
5. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

Article 4. Tax Sheltered Annuity Contributions

§ 20547. Tax Sheltered Annuity.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. Amendment filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19). For prior history, see Register 76, No. 42.
2. Repealer and new section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
3. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20548. Tax Sheltered Annuity Contributions.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. Amendment filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19). For prior history, see Register 76, No. 42.
2. Repealer and new section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
3. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20549. Resolution.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. Amendment and renumbering of Section 20516 filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 64, No. 4.
2. Amendment filed 10–15–76; effective thirtieth day thereafter (Register 76, No. 42).

3. Repealer and new section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
4. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20550. Amendment of Employment Contract.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 10–5–72; effective thirtieth day thereafter (Register 72, No. 41).
3. New section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
4. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20551. Limit on Tax Sheltered Contributions.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
2. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20552. Transmittal and Report of Tax Sheltered Annuity Contributions.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
2. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20553. Withdrawal.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 6–6–79 as an emergency; designated effective 6–30–79. Certificate of Compliance included (Register 79, No. 23).
2. Repealer filed 11–6–79; designated effective 12–31–79 (Register 79, No. 45).

§ 20554. Tax Sheltered Annuity Program.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20554.1. Discontinuance of Former Tax Sheltered Annuity Program.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20555. Investment of Tax Sheltered Annuity Funds.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20556. Resolution by Contracting Employer.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20557. Transmittal and Report of Tax Sheltered Annuity Contributions.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20558. Withdrawal for Emergencies.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 20558.1. Community Property Interest.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Sections 22231 and 22310, Education Code.

HISTORY

1. New section filed 9–21–79; effective thirtieth day thereafter (Register 79, No. 38).
2. Repealer filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

Article 5. Retired Members Employed as Substitute Teachers

§ 20559. Monthly Reports by Governing Board.

HISTORY

1. Repealer of former Sections 20525 and 20527 and amendment and renumbering of Section 20526 filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 68, No. 34.
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 20560. Amount of Contribution.

HISTORY

1. Repealer filed 7–6–73; effective thirtieth day thereafter (Register 73, No. 27). For prior history, see Register 70, No. 35.

Article 6. Nomination of Beneficiaries

§ 20570. Nomination of Beneficiaries.

HISTORY

1. New Section filed 9–18–57; effective thirtieth day thereafter (Register 57, No. 16.)
2. Amendment and renumbering of Section 20529 filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
3. Repealer filed 8–14–74; effective thirtieth day thereafter (Register 74, No. 33).

§ 20571. Beneficiary Under Trust.

NOTE: Authority cited: Sections 13872 and 13879, Chap. 4, Div. 10, Education Code.

HISTORY

1. New Section filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35).
2. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

Article 7. Election of Options

§ 20580. Optional Elections in Advance of Retirement.

HISTORY

1. Amendment and renumbering of Section 20531 filed 8–28–70; effective thirtieth day thereafter (Register 70, No. 35). For prior history, see Register 60, No. 13.
2. Amendment filed 10–15–76; effective thirtieth day thereafter (Register 76, No. 42).
3. Amendment filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
4. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20581. Early Retirement Limited Term Reduction Program.

NOTE: Authority cited: Sections 22202, 22209, 22210, and 24210 of the Education Code. Reference: Section 24210 of the Education Code.

HISTORY

1. New section filed 6–25–79; designated effective 8–1–79 (Register 79, No. 26).
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

Article 8. Rates

§ 20600. Regular Interest Rate.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22216 and 22224, of the Education Code. Reference: Section 22145 of the Education Code.

HISTORY

1. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19). For prior history, see Register 77, No. 15.
2. Amendment filed 3–31–78 pursuant to Section 11385, Government Code; effective upon filing (Register 78, No. 13).
3. Amendment filed 3–8–79 pursuant to Section 11385, Government Code; effective upon filing (Register 79, No. 10).
4. Amendment filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
5. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).

§ 20601. Credited Interest Rate.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22216 and 22224, Education Code. Reference: Sections 22146 and 22216, Education Code.

HISTORY

1. Amendment filed 3–9–79 pursuant to Section 11385, Government Code; effective upon filing (Register 79, No. 10). For prior history, see Registers 71, No. 27; 73, No. 27; 76, No. 14; 77, No. 15; and 78, No. 13.
2. Amendment filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
3. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).

§ 20602. When Interest Is Not Chargeable.

NOTE: Authority cited: Sections 22145, 22202, 22210 and 22226, Chapter 4, Division 10, Education Code.

HISTORY

1. New section filed 9–23–71; effective thirtieth day thereafter (Register 71, No. 39).
2. Amendment filed 10–20–71; effective upon filing (Register 71, No. 43).
3. Amendment of NOTE filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
4. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 20603. Present Value Factor.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22216 and 22224, Education Code. Reference: Section 22720, Education Code.

HISTORY

1. Amendment filed 3–9–79 pursuant to Section 11385, Government Code; effective upon filing (Register 79, No. 10). For prior history, see Registers 74, No. 33; 75, No. 26; 76, No. 20; 77, No. 15; and 78, No. 13.
2. Amendment filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
3. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).

§ 21000. Penalty Rate on Late Employer and Employee Contributions.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22216 and 22224, Education Code. Reference: Section 22003, Education Code.

HISTORY

1. New section filed 3–31–78 pursuant to section 11385, Government Code; effective upon filing (Register 78, No. 13). For history of former section, see Register 74, No. 33.
2. Amendment filed 3–9–79 pursuant to section 11385, Government Code; effective upon filing (Register 79, No. 10).
3. Amendment filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
4. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).
5. Editorial correction of printing error restoring HISTORY 4. (Register 91, No. 29).

§ 21001. Employer Contribution Rate for Reduced Workload Program.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Section 22724, Education Code.

HISTORY

1. New section filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
2. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).

§ 21002. Actuarial Normal Cost Rate for Additional Service Credit.

NOTE: Authority cited: Sections 22202, 22209, 22210, 22231 and 22310, Education Code. Reference: Section 22901, Education Code.

HISTORY

1. New section filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
2. Repealer filed 4–2–81; effective upon filing (Register 81, No. 14).

Article 10. Dependents

§ 21020. Dependent Husband.

NOTE: Additional authority cited: Section 14186, Education Code.

HISTORY

1. New Article 10 (§§ 21020–21023) filed 11–21–72; effective thirtieth day thereafter (Register 72, No. 48).
2. Repealer filed 8–14–74; effective thirtieth day thereafter (Register 74, No. 33).

§ 21021. Dependent Parent.

HISTORY

1. Amendment filed 5–6–77; effective thirtieth day thereafter (Register 77, No. 19).
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 21022. Step-Child—When Qualified for Benefit.

HISTORY

1. Repealer filed 1–29–75; effective thirtieth day thereafter (Register 75, No. 5).

§ 21023. Providing Information to the Teachers' Retirement Board.

In addition to tax return, state or federal, the claimant or his guardian shall furnish to the Teachers' Retirement Board such other evidence regarding his financial status as the Teachers' Retirement Board may require.

NOTE: Specific authority: Section 11385, Government Code.

HISTORY

1. Amendment filed 10–15–76; effective thirtieth day thereafter (Register 76, No. 42).

Article 11. State Teachers' Retirement System—Conflict of Interest Code

§ 22000. General Provisions.

(a) Incorporation by Reference of Standard Code and Appendix. The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest regulations. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference. The Standard Code and the Appendix together constitute the Conflict of Interest Code of the California State Teachers' Retirement System (CalSTRS), except as provided in subsections (b) and (c) below.

(b) Filing Requirements. Designated individuals shall file statements of economic interests with CalSTRS, pursuant to Section 4 of the Standard Code. CalSTRS shall make such statements available for public inspection and reproduction. Corporate entities under contract serving as consultants to or contractors for CalSTRS need not file statements of economic interests; however, the natural person within the entity who provides the consulting or contractual services must file the statement of economic interests. With respect to officials who are determined to manage public investments, within the meaning of Government Code Section 87200, they shall also be required to file statement of economic interests (contractors who fall within the meaning of managing public investments shall also be required to file statements of economic interests). Upon receipt of the statements of economic interests of Board Members, representatives of Ex-Officio Board Members, Chief Executive Officer, Chief Investment Officer, Directors of all programs of CalSTRS' Investment Branch, and others falling within the designation of officials who are determined to manage public investments, CalSTRS shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of all other designated employees will be retained by CalSTRS.

(c) Exception. As provided in Section 1 of the Standard Code, 2 Cal. Code of Regulations Section 18730(b)(1), the definitions contained in the Political Reform Act of 1974 shall apply to the terms used in this Code.

NOTE: Authority cited: Article XVI, Section 17, California Constitution; Sections 22209 and 22210, Education Code; and Sections 87034 and 87300, Government Code. Reference: Sections 22205, 22205.2 and 22209, Education Code; Sections 87200 et seq. and 87300 et seq., Government Code; and Section 187300, Title 2, California Code of Regulations.

HISTORY

1. New article 11 (sections 22000–22007, Exhibits A and B) filed 6–2–78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 2–9–78 (Register 78, No. 22).
2. Repealer of article 11 (sections 22000–22007 and Exhibits A and B) and new article 11 (section 22000 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Amendment of section 22000 and repealer and new Appendix filed 2–14–86; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 1–7–86 (Register 86, No. 7).
4. Amendment of section and Appendix filed 1–13–93; operative 1–12–93. Submitted to OAL for printing only pursuant to California Code of Regulations title 2, section 18750 (Register 93, No. 3).
5. Amendment of subsections (a) and (b), NOTE and Appendix filed 5–20–96; operative 6–19–96. Approved by Fair Political Practices Commission 3–29–96 (Register 96, No. 21).
6. Amendment of subsection (b) and Appendix filed 3–31–98; operative 4–30–98. Approved by Fair Political Practices Commission 2–6–98 (Register 98, No. 14).
7. Amendment of Appendix filed 3–20–2000; operative 4–19–2000. Approved by Fair Political Practices Commission 1–24–2000 (Register 2000, No. 12).
8. Amendment of appendix filed 11–26–2001; operative 12–26–2001. Approved by Fair Political Practices Commission 10–2–2001 (Register 2001, No. 48).
9. Amendment of general provisions and Appendix filed 7–12–2005; operative 8–11–2005. Approved by Fair Political Practices Commission 5–16–2005 (Register 2005, No. 28).

Appendix A

<i>Designated Positions</i>	<i>Disclosure Categories</i>
OFFICE OF GENERAL COUNSEL	
Chief Counsel	1
Assistant Chief Counsel	1
Staff Counsel (All Levels)	1
Chief Auditor	1
Management Auditor (All Classes)	5
PLAN DESIGN AND COMMUNICATION BRANCH	
Deputy Chief Executive Officer	1
System Actuary	1
Staff Services Manager (All Levels)	5

Pension Program Managers (All Levels)	5
Communications Director	5

ADMINISTRATION BRANCH

Deputy Chief Executive Officer	1
Staff Service Manager (All Levels)	5
Accounting Administrator (All Levels)	5
Director, Facilities Management, Planning and Services	1
Business Services Officer (All Classes & All Levels)	5
Associate Business Management Analyst	5
Analyst, Contract Office (All Classes)	5
Information Security Officer	5

BENEFITS AND SERVICES BRANCH

Deputy Chief Executive Officer	1
Staff Services Manager (All Levels)	5
Pension Program Manager (All Levels)	5
Pension Program Supervisor	5

INVESTMENT BRANCH

Principal Investment Officer	1
Investment Officer (All Levels)	1
Associate Investment Officer	1
Assistant Investment Officer	1
Fiduciary Counsel	1
Authorized Personnel of External Investment Managers (consultant/contractor*) — Equities	2
Authorized Personnel of External Investment Managers (consultant/contractor*) — Fixed Income	3
Authorized Personnel of External Investment Managers (consultant/contractor*) — Real Estate	4.5
Authorized Personnel of External Alternative Investment Advisors (consultant/contractor*)	1

ENTERPRISE INITIATIVES AND TECHNOLOGY BRANCH

Deputy Chief Executive Officer	1
Chief Information Officer	1
Data Processing Manager (All Levels)	5
Senior or Staff Information System Analyst (Supervisor)	5

Consultants

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Disclosure Categories

The following disclosure categories shall be subject to the terms, definitions, and conditions of the standard Conflict of Interest Code and any amendments thereto incorporated by reference in subparagraph (a) of Section 22000 above.

1. Designated individuals in Category 1 must report:

All interests in real property, all investments, all sources of income, including gifts, loans and travel payments, and all business positions in business entities.

2. Designated individuals in Category 2 must report:

a. Investments in and income, including gifts, loans and travel payments, from common and preferred stocks and equity equivalents, and

b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides stock or other equity brokerage services.

3. Designated individuals in Category 3 must report:

a. Investments in and income, including gifts, loans and travel payments, from fixed-income securities, and

b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides securities brokerage services.

4. Designated individuals in Category 4 must report:

a. Interests in and income, including gifts, loans and travel payments, from real property, and

b. Income, including gifts, loans and travel payments, from and investments and business positions in any business entity that provides real estate brokerage services.

5. Designated individuals in Category 5 must report:

Income, including gifts, loans and travel payments, from and investments and business positions in any business entity of the type which may contract with the California State Teachers' Retirement System to provide services, supplies, materials, machinery or equipment to the System.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that individuals in the positions listed below are officials who manage public investments, within the meaning of Government Code Section 87200, and will file a Statement of Economic Interests under Category 1:

Board Members

Representatives of Ex-Officio Board Members

Chief Executive Officer

Chief Investment Officer

Directors (All Programs) — Investment Branch

Individuals, including consultants, who, under contract, manage public investments, within the meaning of Government Code Section 87200, shall also file a Statement of Economic Interests under Category 1.

Article 12. Unused Excess Sick Leave

§ 23000. Definitions.

NOTE: Authority cited: sections 22720 and 22210, Education Code. Reference: sections 22720 (a)(1) and (a)(2), Education Code.

HISTORY

1. New Article 12 (Sections 23000–23005) filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).
2. Editorial correction of Reference cite (Register 95, No. 9).
3. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 23001. Certification.

NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Sections 22209, 22720(a), (a)(1) and (a)(2) and 22719, Education Code.

HISTORY

1. New section filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 23002. Billing.

NOTE: Authority cited: Section 22720 and 22210, Education Code. Reference: Section 22209 and 22720(a), Education Code.

HISTORY

1. New section filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 23003. Payment.

NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Section 22720, Education Code.

HISTORY

1. New section filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).

2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 23004. Determination of Excess Sick Leave Days.

NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Sections 22209 and 22720(a), Education Code.

HISTORY

1. New section filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).
2. Change without regulatory effect repealing section filed 10–24–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 43).

§ 23005. Delegation of Authority of Board to Chief Executive Officer.

The Board, pursuant to Section 22203 of the Education Code, hereby delegates to the Chief Executive Officer the administration of the program, including but not limited to, the power to act finally in accordance with these regulations and the instructions and supervision of the Board. The Chief Executive Officer may, in turn, delegate his authority to his subordinates.

NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Sections 22203, 22204, 22209 and 22720, Education Code.

HISTORY

1. New section filed 1–29–87; effective thirtieth day thereafter (Register 87, No. 5).

Article 13. Election of Members to the Teachers' Retirement Board

§ 24000. Board Member Elections.

Teachers' Retirement Board (Board) member elections shall be conducted by the Election Coordinator designated by the Chief Executive Officer in accordance with this Article.

The Election Coordinator shall conduct the elections in the most cost-effective manner feasible.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

HISTORY

1. New article 13 (sections 24000–24009) and section filed 5–15–2003; operative upon adoption by the Teachers' Retirement Board 3–6–2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24001. Notice of Election.

The Election Coordinator shall distribute a Notice of Election adopted by the Board in advance of each election containing candidate nomination and election guidelines, eligibility criteria for candidates and voters, how to obtain candidate nomination packets from the System, and the schedule of events.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

HISTORY

1. New section filed 5–15–2003; operative upon adoption by the Teachers' Retirement Board 3–6–2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24002. Nomination of Candidates.

The Election Coordinator shall distribute candidate nomination packets containing a copy of the Notice of Election, petition form, nomination certification form, and copies of the rules and regulations governing the conduct of Board member elections, to members and participants who request a packet.

Members and participants shall qualify for nomination if they meet the eligibility criteria specified in the Notice of Election. Nomination shall be on the petition form provided by the System, signed by members and participants who would otherwise be eligible to vote in the election being conducted had the election occurred at the time they signed the petition. Members and participants may sign more than one petition form. The minimum number of petition signatures required shall be determined by the Board and specified in the Notice of Election.

The candidate shall indicate on the petition form the specific Board member position for which he or she seeks election. An individual candi-

date may not be a candidate for more than one Board member position during any particular election.

The petition form shall include the signature and legible printed name of each member or participant signing the petition, year of birth, and the last 4 digits of his or her Social Security Number. Any signature not accompanied by all of the required information shall be invalidated.

Each candidate shall certify on the nomination certification form provided by the System that he or she accepts the nomination, consents to serve if elected, agrees to comply with the rules and regulations governing the conduct of Board member elections, and abide by a drawing of lots by the Election Coordinator in case of a tied vote.

Only those nomination certification forms and petition forms received in the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted. The candidate must submit the nomination certification form and petition form containing at least the minimum required number of valid signatures in one packet at one time. Completed petition forms and nomination certification forms transmitted via facsimile to the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted if the original completed forms are received in the headquarters office of the System within seven calendar days following the deadline.

The Election Coordinator shall verify the identity and eligibility of individuals who sign candidates' petition forms through sampling or another reasonable and cost-effective method, and shall certify qualified candidates for the Board member election.

The position of candidate names and statements in election materials distributed by the System to eligible voters shall be chosen by lot conducted by the Election Coordinator at the time he or she certifies valid nominating petitions.

The Election Coordinator shall notify qualified candidates of their certification, and the position of their names and statements in election materials distributed by the System. All deadlines and instructions related to the drafting of candidate statements shall be distributed to all qualified candidates in the notification letter. Upon distributing notification letters to qualified candidates, the Election Coordinator shall make public the names of the qualified candidates for the Board member election.

Where only one candidate has been nominated, the Election Coordinator shall, upon verification of the signatures presented in the nominating petition and upon the candidate's certification of his or her nomination acceptance, cancel the remaining election procedures and designate the single candidate to be certified by the Chief Executive Officer as elected.

If no candidate has been nominated in an election, or if no candidate has presented a valid petition form and nomination certification form for an election as required above, the Election Coordinator shall extend the nomination period for an additional 21 calendar days and publicize his or her action to active members and participants and other interested parties.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24003. Candidate Statements.

(a) As part of a candidate statement, each candidate shall provide the following information in the format specified by the Election Coordinator:

- (1) Name.
- (2) Job Title.
- (3) Employer.
- (4) Status as either an active member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program and years of service as a member or participant.
- (5) A list of no more than 5 previous job positions held.
- (6) A list of no more than 5 organizations to which the candidate belongs and positions held in those organizations.

(b) As part of a candidate statement, a candidate may provide a list of no more than 10 endorsements by individuals or entities.

(c) As part of a candidate statement, a candidate may provide answers to the following questions:

(1) What do you think should be the primary role of a member of the Teachers' Retirement Board?

(2) How do you think you could contribute to CalSTRS as a member of the Teachers' Retirement Board?

(3) What education and training do you possess that has prepared you to serve as a member of the Teachers' Retirement Board?

A candidate's answers to the preceding three questions indicating his or her opinion or positions on issues of general concern to the System's membership may be included, so long as they are clearly stated as the candidate's opinion or view and do not exceed the length limits specified by the Board in the Notice of Election. The answers must be truthful, and must not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading. Answers may not refer to individual members of the Board or other candidates for election to the Board by name or inference.

Any portion of a candidate's answers to the questions above which, in total, exceeds the length limits specified by the Board in the Notice of Election will not be distributed.

(d) The candidate statement shall be filed with the Election Coordinator by the deadline indicated in the notification letter sent to qualified candidates. Once filed, statements may not be changed or withdrawn except by the Election Coordinator. Any candidate statement received after the deadline will not be distributed.

The Election Coordinator shall distribute candidate statements to the candidates in each contest following the candidate statement filing deadline. The Election Coordinator shall accept written comments concerning a candidate statement from opposing candidates for fourteen calendar days following the date he or she distributes the submitted candidate statements. The Election Coordinator shall attempt to resolve a dispute between candidates over a submitted candidate statement. Only those written comments that allege a candidate statement violates the provisions of this Section may be considered.

The Election Coordinator shall reject or edit any statement which he or she determines contains obscene, vulgar, profane, scandalous, untrue, libelous or defamatory matter or which does not meet the statement limitations stated above. The Election Coordinator may request the candidate to verify the truthfulness of any factual statements. The candidate shall provide timely verification upon such request as specified in the notification letter sent to qualified candidates. The Election Coordinator shall remove any portion of the candidate's statement a candidate is unable to verify. All decisions by the Election Coordinator related to candidate statements are final.

Nothing in this section shall be deemed to make candidate statements or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or distributed to voters. Information contained in the statement is the responsibility of the candidate and the System shall not be held responsible for the validity of any candidate statement or the contents thereof.

Following the review of candidate statements by the Election Coordinator, he or she shall distribute to each candidate in the respective contest all candidate statements as they shall appear in election materials distributed to eligible voters.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24004. Ballot Distribution.

The Election Coordinator shall cause ballots and candidate statements to be distributed in advance of each election to each eligible active member and participant for whom the System has a valid mailing address re-

corded. The Election Coordinator shall provide a means for eligible active members and participants for whom the System does not have a valid mailing address recorded to request ballots and candidate statements. The Election Coordinator shall provide for the return of the voted ballots to the Board without cost to the eligible active member or participant. For purposes of this Article, "eligible active member" or "eligible active participant" means a member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program, respectively, who is employed, on the date, or during the period specified in the Notice of Election's criteria for voter eligibility, by an employer.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24005. Ballot Counting.

The Election Coordinator shall create reasonable procedures to ensure ballots are secured and canvassed in a manner consistent with commonly accepted election practices.

Valid ballots shall be canvassed publicly by an independent, neutral agent appointed by the System for that purpose on the date specified in the Notice of Election at a location to be designated by the System.

Depending upon the method of balloting selected by the Election Coordinator, the following are declared to be invalid ballots and shall not be counted in the election:

- a. Votes cast for individuals not listed as candidates on the official ballot.
- b. Ballots submitted by a person who is not an eligible voter.
- c. A duplicate ballot is received from the same voter.
- d. Votes cast in excess of that allowed on the ballot.
- e. Ballots not forwarded or received within the time period prescribed by the Notice of Election.
- f. If a paper ballot is not forwarded through the United States Postal Service in the valid pre-addressed and stamped return envelope that is furnished.
- g. If a paper ballot is not signed by the eligible voter.
- h. Electronic ballots not cast in the manner prescribed by the System.

The candidate receiving the highest number of votes, or the winning lot as drawn by the Election Coordinator in case of a tie vote, or the single candidate, shall be certified by the Chief Executive Officer as having been elected.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24006. Notice of Election Results.

(a) Within three business days after the public ballot canvassing, or after verification of the nominating signatures pursuant to Section 24002 where the Election Coordinator certifies only one qualified candidate in an election for a position on the Board, the Election Coordinator shall transmit the election results to the Chief Executive Officer for his or her certification.

(b) Following certification by the Chief Executive Officer, the Election Coordinator shall notify candidates, Board members and other interested parties of the certified results. Notification to the newly elected Board member shall include an Oath of Office form. This form is to be signed by the Board member-elect in the presence of a notary public and returned to the System. The Election Coordinator shall file the Oath with the Secretary of State.

(c) Upon the Chief Executive Officer's certification and proper execution of the Oath of Office form, the Board member elected through this process shall take his or her office on either the day provided for by statute or immediately, if elected to fill a vacancy.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24007. Recount of an Election.

(a) A candidate in the affected Board member election may file a written request with the Election Coordinator at the headquarters office of the System for recount within ten business days following the distribution of the certified election results; otherwise, there shall be no opportunity for requesting a recount and the certified election results stand as the final results.

(b) A request for a recount shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the recount.

(c) A candidate in the affected Board member election may request a recount of the valid ballots only if the difference in the number of votes cast between the candidate requesting the recount and the unofficial winner is less than 3 percent of the total number of valid ballots cast. A written request for a recount shall specify the election to be recounted, shall be signed by the candidate requesting the recount, and may specify any other relevant material to be examined.

(d) The Election Coordinator shall set a date for the recount upon receipt of the written request, and shall confirm this date upon receipt of the estimated cost to conduct the recount. The estimated cost of conducting a recount will include the System's administrative cost and the costs of the independent, neutral agent appointed by the System to canvass the valid ballots. Legal tender of the amount of the estimated cost of conducting the recount shall be submitted by the candidate requesting the recount to the Election Coordinator within three business days following notification of the estimated cost to conduct the recount; otherwise, the recount shall be terminated.

(e) If the results of the recount do not change the ranking of the candidates then the certified results shall stand as the final election results. In this case, if the actual cost of the recount is less than the estimated cost deposited by the requester, the System shall refund the amount which exceeds the actual cost; if the actual cost of the recount is more than the estimated cost, the System shall invoice the requester for the difference.

(f) If the results of the recount do change the ranking of the candidates, then the recount results shall be certified by the Chief Executive Officer and shall stand as the final election results. In this case, the System shall refund the amount of the estimated cost deposited by the requester.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24008. Protest of an Election.

A candidate in the affected Board member election may protest an election by filing a written protest with the Election Coordinator at the headquarters office of the System within ten business days following the mailing of the certified election results for an election or a recount, otherwise, there shall be no opportunity for filing a protest and the certified election results shall stand as the final election results. The written protest shall be identified using the word "protest", shall specify the election, and shall state the grounds of the protest and suggested remedy.

Upon receipt of a valid and timely protest, the Election Coordinator shall mail a copy of the request to all candidates in the election and notify the Board and other interested parties that a protest has been filed.

An ad-hoc committee of the Board consisting of an odd number of members no fewer than three shall determine, what remedy, if any, shall be granted to the candidate filing the protest. No Board member who is a candidate in the election under protest, or has endorsed a candidate in

the election under protest may become a member of the committee or participate in its selection.

The Board chairperson shall appoint Board members to the committee. If the Board chairperson is a candidate or has endorsed a candidate in the election under protest, the Board vice chairperson shall appoint Board members to the committee. If the Board vice chairperson is a candidate or has endorsed a candidate in the election under protest, the Board shall appoint from its number, members to the committee at its next regularly scheduled meeting.

If a minimum of three Board members are not eligible to participate on the ad-hoc committee, or if a majority of the full Board, excluding candidates but including endorsers of candidates so directs, the protest shall instead be determined by a panel of three arbitrators in accordance with the provisions below, the laws of the State of California, and the Labor Arbitration rules of the American Arbitration Association (AAA) in effect at the time, to the extent the AAA rules are not in conflict with these regulations. One member of the panel shall be selected by the protesting candidate, one member of the panel shall be selected by the successful candidate, and the third member, who shall serve as chair, shall be selected by the first two panel members.

The committee may consider written and/or oral arguments submitted by the candidate filing the protest and any other interested party, in making its determination. Any oral proceedings by the committee shall be held in the Board's meeting room and be open to the public. Other procedures, including those for receiving and considering arguments and factual allegations, shall be determined by the committee or arbitration panel in its sole discretion.

The determination of the committee or arbitration panel shall be rendered within 30 calendar days of its appointment and shall be final and binding on the System and candidates for office. The committee or arbitration panel shall declare the election under protest void, and the position vacant, only upon a finding that Board-adopted election procedures were not substantially followed and that, without this lack of substantial compliance, the election outcome would likely have been different.

The filing of a protest shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the protest. Any newly elected member, as the result of a protest, shall hold office for a period equal to the remainder of the term of the vacated office. NOTE: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

§ 24009. Elections for Vacant Elected Seats.

The Board shall provide public notice that an elected seat on the Board has been vacated at or before its next regularly scheduled meeting.

The Board shall hold special elections to fill vacancies that occur during the term of the elected members of the Board by distributing a Notice of Election for a vacated seat within 90 calendar days of the vacancy. An election shall be held within 180 calendar days of the distribution of the Notice of Election.

NOTE: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.

HISTORY

1. New section filed 5-15-2003; operative upon adoption by the Teachers' Retirement Board 3-6-2003. Submitted to OAL for printing only (Register 2003, No. 20).

Article 14. Investment Relationships and Campaign Contributions

§ 24010. Prohibitions on Campaign Contributions.

(a) No party engaging or seeking to engage in an Investment Relationship with CalSTRS may make any campaign contributions, as defined in The Political Reform Act (Gov. Code, § 81000 *et seq.*), valued in excess of \$1,000, individually, or \$5000 in the aggregate from the party engaged in the Investment Relationship and the individuals identified in subdivision (d) collectively, in any twelve month period beginning on the dates identified in subdivision (e), to any person designated in subdivision (c) below.

(b) For purposes of this Article 14, "Investment Relationship" means a relationship between a non-governmental party and CalSTRS for the purpose of providing investment services such as money management or fund management services, investment advice or consulting (including making recommendations for the placement or allocation of investment funds), and investment support services (including market research, fund accounting, custodial services, and fiduciary advice) for investments placed in the Teachers' Retirement Fund.

(c) This prohibition applies to campaign contributions made to or on behalf of CalSTRS officers and employees, any existing Teachers' Retirement Board member, the Governor, Controller, Treasurer, and Superintendent of Public Instruction, candidates for Teachers' Retirement Board member, and candidates for the offices of Governor, Controller, Treasurer, and Superintendent of Public Instruction.

(d) This prohibition applies to those parties currently engaging in or seeking to engage in an Investment Relationship with CalSTRS which is expected to generate at least \$100,000 annually in income, fees, or other revenue to the party, and specifically includes:

(1) Those individuals employed by or associated with the parties described in this Section 24010(b), above, who are required to file a Form 700 Statement of Economic Interest pursuant to Government Code Section 81000 *et seq.*, the Fair Political Practices Commission Regulations contained in Title 2, Division 6, California Code of Regulations Section 18109 *et seq.*, and the Teachers' Retirement System Regulations contained in Title 5, Division 3, California Code of Regulations Section 22000, *et seq.*; or

(2) "Authorized Personnel/Key Personnel" as defined and identified by the contracting party in the "Authorized Personnel/Key Personnel exhibit" incorporated in or attached to the contract between the contracting party entering into the Investment Relationship and CalSTRS; or

(3) Those individuals who expect to and/or do experience a material financial effect on their economic interests including salary, bonuses, options, or other financial incentives directly deriving from an Investment Relationship with CalSTRS.

This prohibition also applies to contributions from any other entities or individuals made at the direction of such parties identified above in this subdivision (d).

(e) For parties defined in subdivision (d) above, the prohibition set forth in this section shall apply to the time period which begins

(1) On the date CalSTRS first announces a procurement or search process that could lead to an Investment Relationship which is likely to generate at least \$100,000 annually in income, fees, or other revenue to the party; or

(2) On the date a party identified in subdivision (d) above approaches CalSTRS with a proposal to enter into an Investment Relationship with CalSTRS by discussing the specific facts and financial terms of a particular investment transaction or strategy, whichever is earlier, and ends

when the Investment Relationship is terminated by any party for any reason, or when CalSTRS communicates its decision not to pursue the Investment Relationship.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

HISTORY

1. New article 14 (sections 24010–24013) and section filed 10–29–2007; operative 11–28–2007 (Register 2007, No. 44).

§ 24011. Disclosure and Recusal Requirement for Campaign Contributions.

(a) No CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction shall make, participate in making or in any way attempt to use his or her official position to influence a decision involving an Investment Relationship with CalSTRS if the officer, employee or member has received, solicited or directed a campaign contribution, as defined in The Political Reform Act (Gov. Code, § 81000 *et seq.*), valued in excess of \$1,000, individually or \$5000 in the aggregate, in any twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d). For purposes of this section, a member appointed by the Governor and the Director of Finance shall also be deemed to have received a contribution if the Governor who appointed the member or Director of Finance has received a contribution within the twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d).

(b) If the disqualification provision of subdivision (a) results in the lack of a quorum for the purposes of taking action on any item before the Board or any of its committees, a sufficient number of Board members to constitute a quorum shall be drawn by lot from the otherwise disqualified Board members for the purpose of establishing a quorum and taking action on items before the Board or any of its committees. Board members who have been drawn by lot to constitute a quorum shall have their participation deemed as necessary and shall be exempt from the restrictions of subdivision (a) for the purpose of establishing a quorum and participating in the deliberations and voting on an item for which a quorum could not be established absent this waiver of the restrictions of subdivision (a).

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

HISTORY

1. New section filed 10–29–2007; operative 11–28–2007 (Register 2007, No. 44).

§ 24012. Remedies, Enforcement and Safe Harbors.

(a) CalSTRS' General Counsel shall cause an independent investigation to be performed for any reported violation of Sections 24010 and 24011, and report any documented violation to the Board for action.

(b) If any party seeking an Investment Relationship with CalSTRS is found to be in violation of Section 24010, that party shall be disqualified from engaging in an Investment Relationship with CalSTRS for a period of two years.

(c) Any party who has an existing Investment Relationship with CalSTRS and who is found to be in violation of the provisions of Section 24010 shall be subject to disqualification from doing future or additional business with CalSTRS for a period of two years.

(d) If a party voluntarily reports a violation of Section 24010 to the CalSTRS General Counsel within ninety days of the contribution being made and it is established pursuant to an independent investigation that the violation was inadvertent, the disqualification provision of subdivision (c) will not be applied. This safe harbor provision does not apply to a knowing or intentional violation of Section 24010.

(e) CalSTRS staff shall maintain a current list of parties engaged in an Investment Relationship subject to Section 24010, subdivision (d). The disclosure and recusal requirements of Section 24011, subdivision (a) shall not apply to any CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction if the Investment Relationship has not been published on the list maintained by CalSTRS staff.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

HISTORY

1. New section filed 10–29–2007; operative 11–28–2007 (Register 2007, No. 44).

§ 24013. Definitions.

Thins not specifically defined herein are defined in the Government Code, the Education Code, the Political Reform Act, the Fair Political Practices Commission Regulations, and the Teachers' Retirement System Regulations.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.

HISTORY

1. New section filed 10–29–2007; operative 11–28–2007 (Register 2007, No. 44).

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Title 5. Education

Division 4. California Student Aid Commission

Vol. 6

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Division 4. California Student Aid Commission

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Division 4. California Student Aid Commission

Chapter 1. California Student Aid Commission

Article 1. Definition of Certain Terms

§ 30000. Academic Year.

For Cal Grant A and B an academic year means two semesters or three quarters or their equivalent within a 12-month period. An academic year may include a summer quarter in those colleges which maintain a summer quarter comparable to either the fall, winter or spring quarters. For Cal Grant C an academic year means a period of time usually eight or nine months during which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters of instruction.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69500–69515 and 69530–69547, Education Code.

HISTORY

1. Repealer of Article 1 (Sections 30000–30006) and new Article 1 (Sections 30000–30006) filed 6–10–77; effective thirtieth day thereafter (Register 77, No. 24). For prior history, see Register 69, No. 51 and Register 59, No. 7.
2. Amendment filed 6–18–82; effective thirtieth day thereafter (Register 82, No. 25).

§ 30001. Grant Recipient.

A grant recipient is a person who has successfully met all of the requirements set forth in Education Code Sections 69530 to 69547, who has been selected for a grant by the California Student Aid Commission, and who has accepted the grant in terms of attending a school or college to which he has been admitted.

A Cal Grant A recipient, as defined in Education Code Section 69532, may utilize a grant for tuition and fees as in Education Code Section 69536; a Cal Grant B Recipient, as defined in Education Code Section 69532, may utilize a grant for tuition, fees and subsistence as in Education Code Section 69538; a Cal Grant C recipient, as defined in Education Code Section 69532, may utilize a grant for occupational or technical training for tuition and training-related costs as in Education Code Section 69539.

§ 30002. Eligible Applicant.

An eligible applicant is any person who has successfully met the requirements set forth in Sections 69530 to 69547, Education Code, and has submitted in proper form and prior to established deadlines such applications, supplements and transcripts of academic record, and financial and other information as the California Student Aid Commission may direct.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69534–69536, 69538, 69539 and 69541, Education Code.

HISTORY

1. Amendment filed 6–18–82; effective thirtieth day thereafter (Register 82, No. 25).

§ 30003. Full-Time Student.

A full-time, regularly enrolled undergraduate student is one who is regularly enrolled for a semester or quarter program of not less than 12 (twelve) credit hours or units or their equivalent.

§ 30004. Part-Time Student.

A part-time student is one who is taking 6–11 units or their equivalent. A student enrolled for 9–11 units or their equivalent is considered 3/4-time and a student enrolled for 6–8 units or their equivalent is considered 1/2-time.

§ 30005. Eligibility Limitations.

Undergraduate course means the first eight semesters or twelve quarters or their equivalent of full-time college attendance beyond the high school graduation and prior to a baccalaureate degree. Eligibility may be extended for two semesters or three quarters or their equivalent for students enrolled in a five-year undergraduate program.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69536 and 69538, Education Code.

HISTORY

1. Amendment filed 6–18–82; effective thirtieth day thereafter (Register 82, No. 25).

§ 30006. Standards for Ability to Pay for Postsecondary Education.

The Commission shall adopt standards of measuring parental and student ability to pay for postsecondary education and such standards shall be applicable to Cal Grant A, B, and C.

§ 30007. College Grade Point Average; Community College Grade Point Average.

(a) General.

(1) “College grade point average” and “community college grade point average” mean a grade point average calculated on the basis of all college work completed, except for nontransferable units and courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree. A college grade point average or a community college grade point average must be computed for a minimum of 24 semester units or its equivalent regardless of the grade received.

(2) “All college work completed” includes all coursework for which grades are known to the official reporting the grade point average and accepted for credit at the school reporting the grade point average regardless of the grade received.

(3) It is the responsibility of the student applicant to have his or her college or community college report a grade point average.

(b) College Grade Point Average.

(1) For purposes of computing a college grade point average by an institution that grants a baccalaureate degree, “nontransferable units” and “courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” are those courses which do not earn credit for a baccalaureate degree from the reporting institution.

(2) For purposes of computing a college grade point average by a postsecondary institution that grants an associate degree, “nontransferable units” and “courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” are those courses which do not earn credit for an associate degree at the reporting institution.

(3) For purposes of computing a college grade point average by a postsecondary institution that does not grant a baccalaureate or an associate degree:

(A) “nontransferable units” are those units which are not used in satisfying requirements for earning a baccalaureate degree from a California public institution of higher education that grants such a degree.

(B) “courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” are any courses for which the earned grade is not used in the computation of a grade point average in determining admission eligibility, whether or not units earned for the course are transferable to such an institution.

(c) Community College Grade Point Average.

For purposes of computing a community college grade point average for a Cal Grant Award pursuant to the Ortiz–Pacheco–Poochigian–Vasconcellos Cal Grant Act, “nontransferable units” and “courses not counted in the computation for admission to a California public institution of higher education that grants a baccalaureate degree” mean all courses except “Associate Degree Credit Courses” as defined by Title 5,

Chapter 6, Article 1, Section 55002(a) of the California Code of Regulations.

(d) Certification.

Every college grade point average and community college grade point average reported to the Commission shall include a certification under penalty of perjury to the best of his or her knowledge from the school official filing the report that the grade point average is accurately reported. The certification shall include a statement that it is subject to review by the Commission or its designee.

NOTE: Authority cited: Section 69433.7, Education Code. Reference: Section 69432.7(d), Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order, including redesignation and amendment of former subsection (a) as subsections (a)-(a)(3) transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

§ 30008. High School Grade Point Average.

(a) "High school grade point average" means a grade point average calculated on a 4.0 scale, using all academic coursework, for the sophomore year, the summer following the sophomore year, the junior year, and the summer following the junior year, excluding physical education, reserve officer training corps (ROTC), and remedial courses. However, for high school graduates who apply after their senior year, "high school grade point average" includes senior year coursework, excluding physical education, reserve officer training corps (ROTC), and remedial courses. Grade point averages shall only include the most recent grade for any course repeated by a student.

(b) "High School" means a secondary school accredited by Western Association of Schools and Colleges (WASC), or another regional accrediting association if the secondary school is not in the WASC region, or which has a University of California approved course list. Applicants who do not have a grade point average from a high school shall provide a test score from the General Educational Development test (GED), the American College Test (ACT) or the Scholastic Aptitude Test (SAT).

(c) Every high school grade point average reported to the Commission shall include a certification under penalty of perjury from the school official filing the report that the grade point average is accurately reported to the best of his or her knowledge. The certification shall include a statement that it is subject to review by the Commission or its designee. It is the responsibility of the applicant to have his or her high school grade point average reported.

NOTE: Authority cited: Section 69433.7, Education Code. Reference: Section 69432.7(h), Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order, including the addition of a subsection designator for each paragraph, transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

§ 30009. Qualifying Institution.

(a) A "Qualifying Institution" means an institution as defined by Education Code section 69432.7(l).

(b) An institution qualifying pursuant to section 69432.7(l)(1) must be participating in the Federal Pell Grant program and in at least two of the three federal campus-based programs specifically listed in subdivisions

(A), (B) and (C) of that section. "Participating in federal campus-based programs" means the school has been allocated funds and is spending those funds at each California site which Cal Grant recipients attend.

(c)(1) An institution qualifying pursuant to section 69432.7(l)(2) means a postsecondary nonprofit institution headquartered and operating in California which:

(A) certifies to the Commission that 10 percent of the institution's operating budget is expended for institutionally funded student financial aid in the form of grants; and

(B) demonstrates to the Commission that it has the administrative capacity to administer the funds; and

(C) is accredited by the Western Association of Schools and Colleges; and

(D) meets such other standards adopted by regulation by the Commission in consultation with the Department of Finance.

(2) A regionally accredited institution that was deemed qualified by the Commission to participate in the Cal Grant Program for the 2000-01 academic year shall retain its eligibility as long as it maintains its existing accreditation status.

(d) A qualifying institution or a specific site of an otherwise qualifying institution shall be deemed disqualified if it no longer possesses all of the requirements for a qualifying institution.

(e) An institution that becomes disqualified pursuant to Part 600 of Title 34 Code of Federal Regulations shall not be a "qualified institution" pursuant to this section.

(f) An institution disqualified pursuant to this section may become a "qualifying institution" by complying with Education Code section 69432.7(l) and this section.

NOTE: Authority cited: Section 69433.7, Education Code. Reference: Section 69432.7(l), Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order, including amendment of subsection (d), transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

Article 2. Applicant Qualifications

§ 30020. Academic Record.

The Commission may establish minimum standards of academic achievement and potential and may adopt criteria for selecting recipients of grants from among applicants to qualify for a Cal Grant and may require applicants to submit transcripts of high school and college academic records or other evidence of potential.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69500-69515 and 69530-69547, Education Code.

HISTORY

1. Repealer of Article 2 (Sections 30020-30022) and new Article 2 (Sections 30020-30022) filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24). For prior history, see Register 61, No. 22 and Register 70, No. 20.

§ 30021. Choice of School or College.

A Cal Grant shall be granted in terms of the applicant's selection of school or college at the time he is selected for a grant.

§ 30022. Change in School or College Choice.

Whenever a grant recipient changes his choice of school, college or program, the Commission must redetermine his financial need eligibility. Subject to such redetermination, a grant recipient may change his choice of college (a) prior to the time of actual enrollment, (b) at the conclusion of a quarter or semester, provided that any loss of tuition and fee payments shall be borne by the student.

§ 30023. In Lieu Test Scores; Grace Period.

(a) All Cal Grant A and B applicants shall submit a grade point average pursuant to section 30007, 30008 or 30026.

(1) For a Competitive Cal Grant award pursuant to Article 5 (beginning with Education Code section 69437) of the Ortiz–Pacheco–Poochigian–Vasconcellos Cal Grant Act, a student who does not have a grade point average pursuant to section 30007 or 30008 or whose grade point average is more than 5 years old may submit a test score from the General Educational Development test (GED), the American College Test (ACT) or the Scholastic Aptitude Test (SAT).

(2) It is the responsibility of the applicant to have a grade point average or test score reported.

(b) A standardized test score for each approved test shall be converted to an equivalent grade point average by the Commission using the national distribution of test scores as compared to the distribution of grade point averages on a 0.00 to 4.00 scale. The grade point equivalencies shall be calculated based upon research from the testing agency for each approved test.

(c) The Commission may, on a case-by-case basis, accept the submission of grade point average(s) from an applicant or reporting institution after the March 2 or September 2 deadline if, in the opinion of the Executive Director, circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average(s) by the applicant or reporting institution(s) by the March 2 or September 2 deadline.

(1) Such circumstances must be shown by a certification: (i) from the reporting institution of the circumstances beyond the control of the applicant that delayed or prevented the timely submission of the grade point average by the reporting institution by the March 2 or September 2 deadline; (ii) from the applicant or reporting institution with proof that the grade point average was originally mailed by the applicant or reporting institution before the deadline; or (iii) from the applicant with a written description, under penalty of perjury, of the facts showing that circumstances beyond the control of the applicant delayed or prevented the timely submission of the grade point average.

(2) In the case of an application for an entitlement award under Education Code sections 69434, 69435, 69435.3, or 69436, any request to accept grade point average(s) after the March 2 deadline shall be received by the Commission no later than May 16 (seventy-five (75) days after the March 2 deadline) and the computed grade point average(s) and certification specified in subsection (1) shall be included with the request. No later than April 16 (forty-five (45) days after the March 2 deadline), the Commission shall inform students who are potentially eligible for entitlement awards based on application information the Commission has received, that their grade point average(s) had not been received by the Commission by the March 2 deadline, and shall not notify them that they have until May 16 (75 days from the March 2 deadline) to request the Commission to accept their late grade point average(s) on the conditions specified above, including the submission of the certification specified in subsection (1).

(3) In the case of an application for a competitive grant award under Education Code sections 69437, 69437.3, or 69437.6, any request to the Executive Director to accept grade point average(s) after the March 2 or September 2 deadline shall be received by the Commission no later than March 22 or September 22 (twenty (20) days after the March 2 or September 2 deadline) and the computed grade point average(s) and the certification specified in subsection (1) shall be included with the request.

(4) Pursuant to Government Code section 6707, in such cases where the March 22 or September 22 deadline to request late submittal of grade point average(s) on behalf of competitive applicants or the May 16 deadline to request late submittal of grade point average(s) on behalf of entitlement applicants falls upon a Saturday, Sunday, or state holiday, the request for late submittal must be postmarked or received by the Commission by the following business day.

(d) Applicants or officials who submit a timely but incomplete or incorrect grade point average shall have a grace period of ten (10) days after the mailing of notice by the Commission to file a corrected or completed grade point average. A corrected or completed submission postmarked within the 10 day period shall be deemed to comply with this requirement.

NOTE: Authority cited: Sections 69432.9(c) and 69433.7, Education Code. Reference: Sections 69432.9(c), 69434, 69435, 69435.3, 69436, 69437, 69437.3 and 69437.6, Education Code.

HISTORY

1. New section filed 1–16–2001 as an emergency; operative 1–16–2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–16–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5–15–2001 as an emergency; operative 5–16–2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–13–2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–15–2001 order, including the addition of a subsection designator for each paragraph and amendment of newly designated subsection (c), transmitted to OAL 7–25–2001 and filed 8–13–2001 (Register 2001, No. 33).
5. New subsection (c)(1) filed 10–26–2006 as an emergency; operative 10–26–2006 (Register 2006, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–23–2007 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 10–26–2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2007, No. 12).
7. Amendment of subsection (c), new subsections (c)(1)–(4) and amendment of NOTE filed 5–11–2007; operative 5–11–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).

§ 30024. Cal Grant B Entitlement Criteria.

A Cal Grant B Entitlement award for first year tuition and fees plus the access grant as defined and limited by Education Code section 69435(a)(3) shall be given to applicants based upon consideration of the following factors:

(a) Applicants with the lowest expected family contribution determined pursuant to Education Code Section 69432.7; and applicants with the highest level of academic merit as indicated by their high school grade point average and/or submitted test scores;

(b) Additional factors to be considered may include any of the following:

(1) Whether the applicant is an orphan or ward of the court or was a ward of the court at the age of eighteen;

(2) The level of education attainment of the applicant's parents;

(3) The number of family members in the applicant's household in relation to the household income; and

(4) Whether the applicant comes from a single parent household or is a single parent.

NOTE: Authority cited: Sections 69435(a)(3) and 69433.7, Education Code. Reference: Section 69435(a)(3), Education Code.

HISTORY

1. New section filed 1–16–2001 as an emergency; operative 1–16–2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5–16–2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5–15–2001 as an emergency, including amendment of first paragraph; operative 5–16–2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–13–2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–15–2001 order, including amendment of subsection (b), transmitted to OAL 7–25–2001 and filed 8–13–2001 (Register 2001, No. 33).

§ 30025. Cal Grant A and B Competitive Award Selection Criteria.

(a) A Cal Grant A or B Competitive Award shall give special consideration to applicants who are disadvantaged students taking into consider-

ation those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper access to, and ability to persist in, postsecondary education programs. The extent to which an applicant is considered disadvantaged shall be determined based on the following:

- (1) Whether the applicant is an orphan or ward of the court or was a ward of the court at the age of eighteen;
- (2) The level of education attainment of the applicant's parents;
- (3) The number of family members in the applicant's household in relation to the household income; and
- (4) Whether the applicant comes from a single parent household or is a single parent.

NOTE: Authority cited: Section 69433.7, Education Code. Reference: Section 69437, Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order, including the designation of the first paragraph as subsection (a), transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

§ 30026. Reestablishing Grade Point Average.

An applicant seeking to reestablish his or her grade point average pursuant to Education Code section 69437.6(c) may do so by providing a grade point average computed pursuant to Section 30007(c) for at least 16 academic semester units or its equivalent from an accredited California community college. It is the responsibility of the applicant to have his or her community college report a grade point average.

NOTE: Authority cited: Sections 69433.7 and 69437.6(c), Education Code. Reference: Section 69437.6(c), Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

§ 30027. Occupational Talents Criteria.

An applicant seeking to establish "occupational talents" pursuant to Education Code section 69439 may do so by submitting any of the following supplemental information:

- (a) applicant's work history (including unpaid internships) in the field; and/or
- (b) recommendations from teachers or persons working in the applicant's occupational or technical field.

NOTE: Authority cited: Section 69433.7, Education Code. Reference: Section 69439(c), Education Code.

HISTORY

1. New section filed 1-16-2001 as an emergency; operative 1-16-2001 (Register 2001, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-16-2001 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 2001, No. 20).
3. New section refiled 5-15-2001 as an emergency; operative 5-16-2001 (Register 2001, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-13-2001 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5-15-2001 order, including amendment of first paragraph, transmitted to OAL 7-25-2001 and filed 8-13-2001 (Register 2001, No. 33).

Article 3. Use of Cal Grants

§ 30030. Application of Cal Grants.

All Cal Grants are awarded for use during a specified academic year, and shall be put into effect in September of such academic year. Exceptions may be made for students in Cal Grant C or when a student has been granted a leave or in such other instances as the Commission may otherwise provide.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69500-69515 and 69530-69547, Education Code.

HISTORY

1. Repealer of Article 3 (Sections 30030-30033) and new Article 3 (Sections 30030-30033) filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24). For prior history, see Register 64, No. 14).

§ 30031. Tuition and Necessary Fees.

Only the tuition and fee charges which may be classified under the following two categories are acceptable for payment in the Cal Grant Program.

(a) The minimum customary tuition and/or fee charges at the per unit, per quarter, per semester, or per term rate charged all undergraduate students.

(b) Student body fees made mandatory through student action (Education Code Section 23801).

§ 30032. Refund of Grant Payments.

Refund of unused award funds previously paid to a school or college shall be based on the published regulations of the school or college concerned, as certified to the Commission by such school or college.

§ 30033. Withdrawal of a Cal Grant.

The Commission may withdraw a Cal Grant if the recipient:

- (a) Fails to enroll in school or college and attend classes.
- (b) Withdraws from school or college without making a request for a leave of absence.
- (c) Fails to maintain a full-time or part-time program in accordance with the regulations of the school or college he is attending and the California Student Aid Commission.
- (d) Loses his status as a resident in California.
- (e) Fails to continue to demonstrate financial need according to California Student Aid Commission criteria.
- (f) Is in violation of California Student Aid Commission regulations.

Article 4. State Guaranteed Loans

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69500-69515 and 69530-69547, Education Code.

HISTORY

1. New Article 4 (Sections 30040 through 30046) filed 10-17-66 as an emergency; effective upon filing (Register 66, No. 36).
2. Amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).
3. Repealer of Article 4 (Sections 30040-30046) filed 6-14-78; effective thirtieth day thereafter (Register 78, No. 24).

Article 5. State Student Incentive Grant Program

§ 30050. Statement of Non-Interference.

The Student Aid Commission finds that the State Student Incentive Grant Program as authorized by Title IV, Part A, Subpart 3, of the Higher Education Act of 1965 as amended (20 U.S.C., 1070c-107c-3), will not interfere with or jeopardize the continuation of the Cal Grant Program established under Sections 69530 through 69547 of the State Education Code.

NOTE: Authority cited for Article 5: Section 69544, Education Code. Reference: Sections 69500-69515 and 69530-69547, Education Code.

HISTORY

1. New Article 5 (Sections 30050-30057) filed 8-2-74 as an emergency; effective upon filing (Register 74, No. 31).

2. Certificate of Compliance filed 11-22-74 (Register 74, No. 47).
3. Amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30051. Eligible Students.

Eligible students are undergraduate students with substantial financial need who are applicants for a Cal Grant A, Cal Grant B, or Cal Grant C who meet all requirements otherwise established by the California Student Aid Commission for receipt of such awards.

HISTORY

1. Amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30052. Substantial Financial Need.

Substantial financial need shall be financial need using standards of financial need assessment established by the Commission for receipt of state funds including standards of family contributions, self-help expectations, and unmet need.

§ 30053. Full-Time Student.

A full-time, regularly enrolled undergraduate student is one who is regularly enrolled for a semester or quarter program of not less than 12 (twelve) credit hours or their equivalent.

HISTORY

1. Amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30054. Part-Time Student.

A part-time student is one who is taking 6-11 units or their equivalent. A student enrolled for 9-11 units or their equivalent is considered 3/4-time and a student enrolled for 6-8 units or their equivalent is considered 1/2-time.

HISTORY

1. Repealer and new section filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30055. Size of Grant.

The size of the grant shall never be more than one-half of the maximum authorized by the Education Code in the State Scholarship (Cal Grant A), College Opportunity Grant (Cal Grant B), or Occupational Education and Training Grant (Cal Grant C) programs.

HISTORY

1. Renumbering of former Section 30054 and amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30056. Independent Students.

The criteria for determining independence from parental income shall be the same as established by the Commission for establishing independence from parental income for the Cal Grant A, Cal Grant B, and Cal Grant C programs.

HISTORY

1. Renumbering of former Section 30055 and amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30057. Academic Year.

An academic year means a period of time usually eight or nine months during which a full-time student would normally be expected to complete the equivalent of two semesters, two trimesters, or three quarters of instruction.

HISTORY

1. Renumbering of former Section 30056 filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

§ 30058. Eligible Institutions.

Eligible institutions are institutions which are located in California which meet the requirements for participation in the Cal Grant A, Cal Grant B, and Cal Grant C programs as established in the State Education Code.

HISTORY

1. Renumbering of former Section 30057 and amendment filed 6-10-77; effective thirtieth day thereafter (Register 77, No. 24).

Article 6. Conflict of Interest Code Student Aid Commission

§ 30060. Conflict of Interest Code.

The Political Reform Act, Government Code sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Student Aid Commission.

Pursuant to section 4(a) of the Standard Code, designated employees shall file statements of economic interests with their agencies. Upon receipt of the statements of the California Student Aid Commissioners, the Executive Director, members of the EDFUND Board of Directors, and the President of EDFUND, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 87100, et seq., Government Code.

HISTORY

1. New article 6 (sections 30060-30069) filed 7-8-77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 6-8-77 (Register 77, No. 28).
2. Repealer of article 6 (sections 30060-30069 and Exhibits A and B) and new article 6 (section 30060 and Appendix) filed 6-12-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 6-30-80 (Register 81, No. 24).
3. Amendment of Appendix (Exhibits A and B) filed 1-4-85; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 11-13-84 (Register 85, No. 1).
4. Amendment of Appendix filed 3-27-89; operative 4-26-89. Approved by Fair Political Practices Commission 1-25-89 (Register 89, No. 13).
5. Amendment of Conflict of Interest Code filed 1-17-91; operative 2-16-91 (Register 91, No. 11).
6. Amendment of section and Appendix filed 4-30-2001; operative 5-30-2001. Approved by Fair Political Practices Commission 2-26-2001 (Register 2001, No. 18).
7. Amendment of Appendix Exhibit A filed 3-8-2004; operative 4-7-2004. Approved by Fair Political Practices Commission 12-9-2003 (Register 2004, No. 11).
8. Amendment of Appendix A filed 5-26-2005; operative 6-25-2005. Approved by Fair Political Practices Commission 3-17-2005 (Register 2005, No. 21).

Appendix

Exhibit "A"

Designated Positions

1. Persons occupying the following positions are designated employees and must report those financial interests listed in the disclosure categories under Exhibit "B" to which they have been assigned. (No employee who performs purely ministerial, clerical, or service functions shall be a designated employee.) California Student Aid Commission (CSAC) employees assigned to EDFUND will be considered EDFUND employees for purposes of determining whether their position is a designated position.

*Assigned
Disclosure
Categories*

Designated Position

California Student Aid Commission Employees

California Student Aid Commissioner	1, 2, 3
Executive Director	1, 2, 3
Chief Deputy Director	2, 3
Division Chief	2, 3
Accounting Officer	2, 3
Auditor	2, 3
Contract Officer	2, 3
Financial Aid Manager	2, 3
Procurement Officer	2, 3
Staff Counsel	2, 3
Staff Services Manager	2, 3

Consultants*	2, 3
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EDFUND Employees

EDFUND Board Member	1, 2, 3
President	1, 2, 3
Vice President	2, 3
Assistant Vice President	2, 3
Auditor	2, 3
Claims Prevention and Resolution Manager	2, 3
Finance and Administration Manager	2, 3
Ombudsman	2, 3
Procurement Staff	2, 3
Staff Counsel	2, 3

*Consultants	2, 3
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Exhibit "B"

Disclosure Categories

Designated employees assigned to Category 1 shall disclose:

Interests in real property located in the jurisdiction.

Designated employees assigned to Category 2 shall disclose:

Investments and business positions in, and income from, business entities of the type which provide services, supplies, materials, or equipment to the Commission.

Designated employees assigned to Category 3 shall disclose:

Investments and business positions in, and income from, business entities of the type that either provide financial aid or related services to the Commission or participate in and benefit from the Commission's programs. This includes, but is not limited to, affiliations with and income from public, private or vocational schools, colleges and universities, educational associations or entities, state or federal agencies, financial aid processors, collection agencies, lending institutions, lender services, school services, secondary markets and contracted servicers.

Exhibit "C"

Consultants

** Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:*

The Executive Director or the President of EDFUND may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's or President of EDFUND's determination is a public record and shall be retained

for public inspection in the same manner and location as this conflict of interest code.

Article 7. Statement of Purpose and Criteria for Approval as Processor for the Student Aid Application for California for Student Aid Commission Programs

§ 30075. Statement of Purpose.

NOTE: Authority and reference cited: Section 69544 and Sections 69534 through 69534.7 of the Education Code.

HISTORY

1. New Article 7 (Sections 30075 and 30076) filed 8-4-78 as an emergency; effective upon filing (Register 78, No. 31).
2. Certificate of Compliance filed 11-9-78 (Register 78, No. 45).
3. Amendment filed 8-1-79 as an emergency; effective upon filing (Register 79, No. 31).
4. Certificate of Compliance filed 10-1-79 (Register 79, No. 40).
5. Repealer filed 3-14-88; operative 4-13-88 (Register 88, No. 13).

§ 30076. Criteria for Approval as Processor.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69534-69534.7, Education Code.

HISTORY

1. Editorial correction to delete former history note (Register 78, No. 48).
2. Amendment filed 8-1-79 as an emergency; effective upon filing (Register 79, No. 31).
3. Certificate of Compliance filed 10-1-79 (Register 79, No. 40).
4. Amendment of subsections (1), (2) and (15) filed 6-18-82; effective thirtieth day thereafter (Register 82, No. 25).
5. Amendment filed 6-19-85; effective thirtieth day thereafter (Register 85, No. 25).
6. Repealer filed 3-14-88; operative 4-13-88 (Register 88, No. 13).

Article 8. Approval or Disapproval for Processing

§ 30080. Approval as a Sole Processor.

NOTE: Authority and reference cited: Section 69544 and Sections 69534 through 69534.7 of the Education Code.

HISTORY

1. New Article 8 (Section 30080) filed 8-4-78 as an emergency; effective upon filing (Register 78, No. 31).
2. Certificate of Compliance filed 11-9-78 (Register 78, No. 45).
3. Amendment filed 8-1-79 as an emergency; effective upon filing (Register 79, No. 31).
4. Certificate of Compliance filed 10-1-79 (Register 79, No. 40).
5. Repealer filed 3-14-88; operative 4-13-88 (Register 88, No. 13).

§ 30081. Withdrawal as a Sole Processor During Period of Service.

NOTE: Authority and reference cited: Section 69544 and Sections 69534 through 69534.7 of the Education Code.

HISTORY

1. New section filed 8-1-79 as an emergency; effective upon filing (Register 79, No. 31).
2. Certificate of Compliance filed 10-1-79 (Register 79, No. 40).
3. Repealer filed 3-14-88; operative 4-13-88 (Register 88, No. 13).

§ 30082. Withdrawal as a Sole Processor upon Expiration of Period of Service.

NOTE: Authority and reference cited: Section 69544 and Sections 69534 through 69534.7 of the Education Code.

HISTORY

1. New section filed 8-1-79 as an emergency; effective upon filing (Register 79, No. 31).
2. Certificate of Compliance filed 10-1-79 (Register 79, No. 40).
3. Repealer filed 3-14-88; operative 4-13-88 (Register 88, No. 13).

Article 9. The California Guaranteed Student Loan Program*

* Established by Chapter 1201, Statutes of 1977.

§ 30100. Federal Regulations.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. New Article 9 (Sections 30100–30127) filed 6–14–78; effective thirtieth day thereafter (Register 78, No. 24). Article was established by Chapter 1201, Statutes of 1977.
2. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
3. Amendment filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
4. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).
5. Repealer of article 9 (sections 30100–30127) filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30101. Student Eligibility.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69761 and 69761.5, Education Code.

HISTORY

1. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30102. Delivery of Loan Checks.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69761 and 69761.5, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Amendment filed 12–14–83; effective thirtieth day thereafter (Register 83, No. 51).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30103. Prior Grant or Loan Obligations.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69761.5, Education Code; 34 CFR Section 682.201 (a)(4), (5), (6), and (c).

HISTORY

1. Amendment filed 6–18–82; effective thirtieth day thereafter (Register 82, No. 25).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30104. Social Security Numbers.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30105. Previous Loan Liability.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30106. Insurance Premium.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 8–1–79 as an emergency; effective upon filing (Register 79, No. 31).
2. Certificate of Compliance filed 10–1–79 (Register 79, No. 40).
3. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
4. Repealer filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30107. Insurance Premium Refunds.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69761.5 and 69763, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Amendment filed 6–21–81; effective thirtieth day thereafter (Register 82, No. 26).
4. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30108. Insurance Premium Revenues.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30109. Student Records.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30110. Enrollment Confirmation.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30111. Full Guarantee.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30112. Payment of Claims.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760–69779, Education Code; 20 USC 1078(c)(1)(A); and 34 CFR 682.516(a)(1)(i).

HISTORY

1. Amendment filed 10–21–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Amendment filed 9–24–86 as an emergency; effective upon filing (Register 86, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–22–87.
4. Request for extension of 9–24–86 emergency order transmitted to OAL on 1–22–87; amendment refiled 1–27–87 as an emergency, operative 1–22–87 (Register 87, No. 5). A Certificate of Compliance must be transmitted to OAL no later than 5–22–87 or emergency language will be repealed by operation of law (Gov. C. § 11346.1).
5. Certificate of Compliance filed 5–21–87 (Register 87, No. 22).
6. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30113. Preclaims Collection Assistance.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760–69779, Education Code; 20 USC 1080(e)(2); and 34 CFR 682.511(d).

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).

[The next page is 207.]

2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Amendment filed 9–24–86 as an emergency; effective upon filing (Register 86, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–22–87.
4. Request for extension of 9–24–86 emergency order transmitted to OAL on 1–22–87; amendment refiled 1–27–87 as an emergency, operative 1–22–87 (Register 87, No. 5). A Certificate of Compliance must be transmitted to OAL no later than 5–22–87 or emergency language will be repealed by operation of law (Gov. C. § 11346.1).
5. Certificate of Compliance filed 5–21–87 (Register 87, No. 22).
6. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30114. Interest on Claims.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30115. Lender Agreement.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30116. Lender and School Reviews.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30117. Sallie Mae.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30120 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30118. Procedural Changes.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30121 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Amendment filed 12–13–78 as an emergency; effective upon filing (Register 78, No. 50).
3. Certificate of Compliance filed 3–7–79 (Register 79, No. 10).
4. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
5. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30119. Earnings from the Reserve Fund.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30122 filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30120. Contracting for Services.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30123 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30121. Loan Proceed Delivery.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Renumbering from section 30124 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Amendment filed 6–21–82; effective thirtieth day thereafter (Register 82, No. 26).
4. Repealer filed 4–11–94; operative 5–11–94 (Register 94, No. 15).
5. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30122. California Student Loan Authority.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30125 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer and new section filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30123. Earnings from the Reserve Fund.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30126 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30124. Lender Transmittal of Manifest and Fees, and Cancellation of Non-Disbursed Loan Guarantees by the Commission.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078–2(a); 34 C.F.R. 682.410 (a)(IV) and Sections 69761, 69761.5 and 69763, Education Code.

HISTORY

1. New section filed 6–21–82; effective thirtieth day thereafter (Register 82, No. 26). For history of former section, see Registers 81, No. 25 and 78, No. 42.
2. Amendment filed 12–17–91; operative 3–1–92. (Register 92, No. 10).
3. Editorial correction (Register 97, No. 24).
4. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30125. Loan Proceed Delivery.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. New section filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
3. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30126. Refunding Unused Loan Funds.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760–69779, Education Code.

HISTORY

1. Renumbering from Section 30114 and amendment filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Amendment filed 12–13–78 as an emergency; effective upon filing (Register 78, No. 50).
3. Certificate of Compliance filed 3–7–79 (Register 79, No. 10).
4. Repealer filed 6–18–81; effective thirtieth day thereafter (Register 81, No. 25).
5. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30127. Contracting for Services.**HISTORY**

1. Repealer filed 10–20–78; effective thirtieth day thereafter (Register 78, No. 42).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

Article 10. The California Loans to Assist Students Program

§ 30200. Federal Regulations.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69760, 69761.5, 69763 and 69770, Education Code.

HISTORY

1. New Article 10 (Sections 30200–30221, not consecutive) filed 6–21–82; effective thirtieth day thereafter (Register 82, No. 26).
2. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).
3. Repealer of article 10 (sections 30200–30227) filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30201. Parent Borrower Eligibility.**HISTORY**

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30202. Student Borrower Eligibility.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30203. Prior Grant or Loan Obligations.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30204. Social Security Number.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30205. Application Fraud.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30206. Insurance Premium.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69761.5, 69763 and 69770, Education Code.

HISTORY

1. Repealer filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30207. Insurance Premium Refunds.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30208. Insurance Premium Revenues.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69763 and 69770, Education Code.

HISTORY

1. Repealer filed 7–17–97; operative 7–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30209. Student Records.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30210. Full Guarantee.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30211. Payment of Claims.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760–69779, Education Code; 20 USC 1078(c)(1)(A); and 34 CFR 682.516(a)(1)(i)

HISTORY

1. Amendment filed 9–24–86 as an emergency; effective upon filing (Register 86, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–22–87.
2. Request for extension of 9–24–86 emergency order transmitted to OAL on 1–22–87; amendment refiled 1–27–87 as an emergency, operative 1–22–87 (Register 87, No. 5). A Certificate of Compliance must be transmitted to OAL no later than 5–22–87 or emergency language will be repealed by operation of law (Gov. C. § 11346.1).
3. Certificate of Compliance filed 5–21–87 (Register 87, No. 22).
4. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30212. Preclaims Collection Assistance.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760–69779, Education Code; 20 USC 1080(e)(2); and 34 CFR 682.511(d).

HISTORY

1. Amendment filed 9–24–86 as an emergency; effective upon filing (Register 86, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–22–87.
2. Request for extension of 9–24–86 emergency order transmitted to OAL on 1–22–87; amendment refiled 1–27–87 as an emergency, operative 1–22–87 (Register 87, No. 5). A Certificate of Compliance must be transmitted to OAL no later than 5–22–87 or emergency language will be repealed by operation of law (Gov. C. § 11346.1).
3. Certificate of Compliance filed 5–21–87 (Register 87, No. 22).
4. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30213. Interest on Claims.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30214. Lender Agreement.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6–24–97; operative 6–24–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30215. Lender and School Reviews.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30216. Sallie Mae.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30217. Procedural Changes.

NOTE: Authority cited: Section 69544, Education Code. Reference: Sections 69763 and 69770, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30218. Earnings from the Reserve Fund.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30219. Lender Transmittal of Manifest and Fees, and Cancellation of Non-Disbursed Loan Guarantees by the Commission.

NOTE: Authority cited: Sections 69763 and 69544, Education Code. Reference: 20 U.S.C. 1078(b)(2); 34 CFR 682.410(a)(1)(iv); and Sections 69763, 69761 and 69761.5, Education Code.

HISTORY

1. New section filed 4-21-94; operative 5-23-94 (Register 94, No. 16).
2. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30220. Loan Proceed Delivery.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 4-11-94; operative 5-11-94 (Register 94, No. 15).
2. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30221. California Student Loan Authority.

NOTE: Authority cited: Section 69544, Education Code. Reference: Section 69763, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30225. Co-Signers and Co-Makers.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760 and 69763, Education Code.

HISTORY

1. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30226. Credit Analysis.

HISTORY

1. New section filed 10-4-84; effective thirtieth day thereafter (Register 84, No. 40).
2. Corrected order deleting text previously filed in error on 10-4-84, filed 10-9-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 40).
3. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30227. Loan Disbursement Instructions.

NOTE: Authority cited: Sections 69544 and 69763, Education Code. Reference: Sections 69760 and 69763, Education Code.

HISTORY

1. New section filed 10-4-84; effective thirtieth day thereafter (Register 84, No. 40).
2. Amendment filed 7-29-85; effective thirtieth day thereafter (Register 85, No. 31).
3. Repealer filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

Article 11. Imposition of Civil Penalties, and Limitation, Suspension and Termination of Eligibility, Under the California Guaranteed Student Loan Program (CGSLP) and the California Loans to Assist Students (CLAS) Program

§ 30300. Purpose and Scope.

Any action taken under this subpart or any other provision of these rules will not affect an institution's responsibility to fulfill the requirements of the Act, regulations or CELP policies and procedures applicable to outstanding CELP loans or the institution's rights, if any, to benefits or payments that are based on the institution's prior participation in the CELP.

This subpart does not apply to:

(a) a determination that an institution fails to meet the definition of either an "institution of higher education" as defined in section 1085(b) of 20 U.S.C., or a "vocational school" as defined in section 1085(c) of 20 U.S.C.;

(b) an institution fails to meet the definition of "lender" in sections 682.200 and 683.10 of 34 C.F.R. or;

(c) of a school's loss of lender eligibility by the Secretary of the U.S. Department of Education (USED) due to its default experience under sections 682.611 and 683.90 of 34 C.F.R.

In any such case, the CLP Official terminates the participation of the institution immediately by sending notice of such termination.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. New article 11 (sections 30300-30314) filed 11-8-84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 45).
2. Editorial correction of printing error correcting article 11 heading (Register 91, No. 29).

§ 30301. Definition of Certain Terms.

(a) Act. Title IV Higher Education Act of 1965, as amended, 20 U.S.C. 1070 ff, and 42 U.S.C. 2751-2756(b).

(b) Action. Any proceeding or notification which limits, suspends or terminates the participation of an institution in the CELP, including those taken without the need of conforming to the procedures of this subpart such as a limitation, suspension, termination or other similar action taken as a result of a violation of a Consent Agreement or termination as provided in Section 30300.

(c) Applicable Laws. Applicable laws include, but are not limited to: The Higher Education Act of 1965, as amended; Section 69760-69779 of the California Education Code; California Fair Debt Collection Practices Act (California Civil Code, Section 1788 ff); Truth in Lending Act (15 U.S.C. 1602 ff).

(d) Binding Arbitration. The presentation of issues to a disinterested person chosen by the parties to hear their contention and render a judg-

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ment which the institution and the California Student Aid Commission agree to honor.

(e) California Educational Loan Programs (CELP). California Guaranteed Student Loan Program and California Loans to Assist Students.

(f) CELP Official. An official of the CELP who has been delegated by the Director, California Student Aid Commission, the responsibility for initiating and pursuing action under this subpart.

(g) Consent Agreement. A voluntary agreement reached between the institution and the CELP Official which fully or partially settles the dispute(s) between the parties.

(h) Delivery. The release of CELP check to a borrower.

(i) Funds. Any money (including checks, drafts, or other instruments), any commitment to provide money, or any commitment of insurance which has been (or may be) provided under the CELP to a borrower or an institution.

(j) Hearing. The orderly presentation of arguments and evidence before a Hearing Officer.

(k) Hearing Officer. An impartial person, appointed by the Director, California Student Aid Commission, with no prior involvement with the facts giving rise to action under this subpart, who is either:

(1) an attorney who has been admitted to the practice of law in California for at least five (5) years preceding his appointment and possesses any additional qualifications established by the California State Personnel Board for the particular class involved;

(2) a person who is an arbitrator qualified by the American Arbitration Association; or

(3) any other person who meets the qualifications (other than merely testing) for the position of Administrative Law Judge for the Federal Government.

(l) Institution. An institution of higher education as defined in 20 U.S.C. 1085(b), a vocational school as defined in 20 U.S.C. 1085(c), and a lender as defined in 34 C.F.R. 682.200 and 683.10.

(m) Limitation. Imposition of conditions including remedies for past violations by the CELP Official or Hearing Officer which an institution must meet in order to continue to participate in the CELP.

(n) Notice. Written information which is intended to advise the person responsible for the administration, in a participating institution, of the CELP of a proposed action by the California Student Aid Commission in which the institution's interests are involved.

(o) Reinstatement. Allows an institution, after termination of its eligibility, to participate again in the CELP upon meeting specific conditions.

(p) Suspension. The removal of an institution's eligibility to participate in the CELP for a specified period of time or until the institution meets certain requirements.

(q) Termination. The removal of an institution's eligibility in the CELP for an indefinite period of time, but not less than 24 months.

(r) Title IV. Title IV of the Higher Education Act of 1965, as amended.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

§ 30302. Causes of Action.

(a) Limitation, suspension, or termination action may be instituted when there is any violation by an institution of applicable law, regulation, or of its school or lender agreement; any violation by an institution of limitations or of a Consent Agreement; or any form or degree of misrepresentation or fraud perpetrated by an institution or its employees in connection with the CELP or other State student financial aid programs.

(b) If the CELP official:

(1) receives information, determined by the CELP Official to be reliable, that an institution is violating any provision of applicable laws, regulations, or any applicable special arrangement, agreement, or limitation;

(2) determines that immediate action is necessary to prevent misuse of Federal or State funds; and

(3) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures autho-

rized in this article; the CELP Official shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), take emergency action consistent with section 30304 of this article. If the institution has a telecopier number which the CELP Official is able to obtain after a diligent search, the CELP Official shall, at the time of mailing, telecopy the notice and statement, without attachments, to the institution.

(c) An emergency action under this section may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the institution under this article before the expiration of that period, in which case the CELP Official may extend the emergency action to a point in time no later than the effective date of the limitation, suspension, or termination if the limitation, suspension, or termination is not contested, or the effective date of the decision of the CELP Official or the Hearing Officer if the limitation, suspension, or termination is contested.

(d) The CELP official shall provide the institution, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

NOTE: Authority cited: Section 69763(a), Education Code. Reference: 20 U.S.C. 1078(b)(1)(T)&(U), 1082(h) & (i) and 1094(c); and 34 C.F.R. 668.81 - 668.97.

HISTORY

1. Amendment filed 2-9-90 as an emergency; operative 2-9-90 (Register 90, No. 7). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-11-90.

2. Certificate of Compliance as to 2-9-90 order transmitted to OAL 6-8-90 and filed 7-9-90 (Register 90, No. 34).

§ 30303. Initiation of Action.

The CELP Official begins a limitation, suspension, or termination action by sending by certified mail, (with return receipt requested) a notice advising the institution of the consequences of the action, the alleged violations on which the action is based, the effective date of the action, and of the institution's right to request a hearing (if the request is in writing and received by the CELP Official at least five (5) days before the date the action is to be effective) and of the right to present written material showing why an action should not take place.

If a hearing is requested, the CELP Official shall set the date and place of the hearing which must be at least twenty (20) days after receipt of the request. No action, other than by Consent Agreement, emergency action, or as otherwise provided in these regulations can take place until after a hearing is held and a decision reached and written notice thereof given.

If the institution does not request a hearing, but submits written material, the CELP Official shall postpone the effective date of the action until after such material is evaluated. All material must be received by the CELP Official within twenty (20) days from the date the institution notifies the California Student Aid Commission of its intention to submit data for consideration. Within thirty (30) days after the material is reviewed, the CELP Official shall notify the institution by certified mail (return receipt requested) that the action is dismissed or will be effective as of the date originally specified.

A limitation, suspension, or termination may not be effective earlier than twenty (20) days after the date on which the notice is mailed unless otherwise provided in these regulations.

NOTE: Authority cited: Section 69763(a), Education Code. Reference: 20 U.S.C. 1078(b)(1)(T)&(U), 1082(h) and 1094(c); and 34 C.F.R. 668.81 - 668.97.

HISTORY

1. Amendment filed 2-9-90 as an emergency; operative 2-9-90 (Register 90, No. 7). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-11-90.

2. Certificate of Compliance as to 2-9-90 order transmitted to OAL 6-8-90 and filed 7-9-90 (Register 90, No. 34).

§ 30304. Effect of Emergency Action.

Emergency action by the CELP Official may include,

(a) barring any further CELP processing or guarantee of loans to be made to borrowers to cover the cost of attendance at a school which is the subject of an emergency action or to be made by a lender or a school lender which is the subject of emergency action and,

(b) barring delivery, by a school which is subject of emergency action, of any checks representing CELP loans.

Emergency action does not bar disbursement or delivery of loans guaranteed, prior to the initiation of emergency action, by

- (1) lender; or by
- (2) a school lender subject to emergency action; or
- (3) to a borrower attending a school subject to emergency action unless specific notification is made by the CELP Official to the affected party.

The failure of an institution to conform with the requirements of an emergency action may result in a limitation or termination action being taken and the automatic withdrawal of the loan guarantee on loans disbursed by a lender or school lender after the effective date of the emergency action. All applications held by any party (which are applications for CELP loans for attendance at a school against which emergency action has been taken or for a loan from a lender against which emergency action has been taken) shall be returned directly by the holder thereof to the borrower with an explanation of the action. The notice of emergency action may include a notice of commencement of a limitation, suspension, or termination proceeding under this subpart.

If emergency action ends by being converted into a limitation or termination, then the regulation applicable to limitation or termination shall apply. In any case to which an emergency action does not apply, loans not yet disbursed or delivered shall be treated in accordance with the terms of a Consent Agreement or shall be disbursed or delivered.

NOTE: Authority cited: Section 69763(a), Education Code. Reference: 20 U.S.C. 1078(b)(1)(T)&(U), 1082(h) and 1094(c); and 34 C.F.R. 668.81 – 668.97.

HISTORY

1. Amendment filed 2–9–90 as an emergency; operative 2–9–90 (Register 90, No. 7). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–11–90.
2. Certificate of Compliance as to 2–9–90 order transmitted to OAL 6–8–90 and filed 7–9–90 (Register 90, No. 34).

§ 30305. Effect of Suspension.

A suspension removes an institution's eligibility to participate in the CELP for a period of not longer than sixty (60) days. The suspension may be extended beyond sixty (60) days if the CELP Official and the institution agree to an extension or the CELP Official begins a limitation or termination proceeding; in which case, the suspension shall continue until the completion of the limitation or termination hearing, including the notification period and resolution of an appeal.

A suspension bars any further CELP processing or guarantee of loans to be made to borrowers to cover the cost of attending a suspended school or to be made by a suspended lender or school lender and bars delivery by a suspended school of any CELP checks.

Suspension does not bar disbursement or delivery of loans guaranteed prior to the suspension by a suspended lender or school lender or by a suspended school, unless specifically so provided in the order of suspension. NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078–2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

§ 30306. Effect of Limitation.

A limitation limits, in a specified manner, the participation of an institution in the CELP by setting special conditions for continued participation in those programs. A limitation imposed by the Hearing Officer or the CELP Official may contain an expiration date, after which the limitation shall cease. The limitation may include an order directing the institution, which is subject to the limitation, to make restitution or repayment of funds. If emergency action has preceded the limitation, then the terms of the emergency action shall be converted to the terms of the limitation, as set forth in this subpart.

A limitation of a school may include a limit on the number or percentage of students enrolled in that institution who may receive CELP loans, a requirement that the school obtain a bond in a specified amount to assure its ability to meet its financial obligations to borrowers who receive CELP loans, and other reasonable limits on its participation in the programs.

A limitation of a lender, or of a school lender, may include a limit on the number or total dollar amount of CELP loans that such lender may make, purchase, or hold or lend to cover the cost of attending a particular school, and other reasonable limits on its participation in the programs.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078–2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

§ 30307. Effect of Termination.

A termination ends the eligibility of an institution to participate in the CELP, bars the delivery by a terminated school of CELP loan proceeds, which shall be immediately returned to the lender, bars CGSL and CLAS Program CELP disbursements by a lender (or by a school lender) whether or not a guarantee was issued, and bars the guarantee of any CELP application submitted by a terminated lender or school lender.

If the emergency action has preceded the termination, then the terms of the emergency action shall be converted to a termination as set forth in this subpart.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078–2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

§ 30308. Civil Penalties.

(a) The CELP Official shall determine whether to impose a civil penalty of up to \$25,000 per violation on an institution against which a cause of action has been commenced pursuant to the provisions of this article.

(b) The CELP Official shall begin a civil penalty proceeding by sending the institution a notice by certified mail with return receipt requested. This notice shall:

(1) Inform the institution of the intent to impose civil penalties against the institution and the amount of the civil penalties, and identify the alleged violations for which the civil penalties are being imposed;

(2) Specify the proposed effective date of the civil penalties, which shall be the same date as the effective date of the limitation, suspension, or termination; and

(3) Inform the institution that the civil penalties shall not be effective on the date specified in the notice if the CELP official receives, at least five days prior to that date, a written request for a hearing or written material indicating why the civil penalties should not be imposed.

(c) If the institution does not request a hearing but submits written material, the CELP Official, after considering that material, shall notify the institution that:

(1) The civil penalties shall not be imposed; or

(2) The civil penalties shall be imposed as of a specified date, and in a specified amount.

(d) If the institution submits a timely request for a hearing, the procedure for the hearing shall be governed by the provisions of this article relating to hearings in limitation, suspension, and termination proceedings.

(e) In any event, if the institution contests the alleged violations which form the bases for the civil penalties, the imposition of the civil penalties shall be stayed until final adjudication of those alleged violations or until settlement by the parties relating to those alleged violations.

(f) In determining the amount of a civil penalty the CELP Official shall consider the appropriateness of the penalty to the gravity of the violation; the frequency and persistence of the violation; and the amount of any losses resulting from the violation.

(g) Notwithstanding any other provision of this article, the total amount of civil penalties, when finally determined after the exhaustion of appeals, if any, shall be subject to deduction by the California Student Aid Commission from any sums owed to the institution by the California Student Aid Commission.

(h) For the purposes of civil penalty imposition, a "violation" shall be a single violation, regardless of the number of instances of that violation.

NOTE: Authority cited: Section 69763(a) and (b), Education Code. Reference: Section 69763(b), Education Code.

HISTORY

1. Renumbering of former Section 30308 to Section 30309, and new Section 30308 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30309. Prehearing Conference.

The purpose of a prehearing conference is to allow the parties to settle or narrow the dispute. A prehearing conference may be convened at the request of the CELP Official, the institution, or the Hearing Officer. The scope of a prehearing conference is to discuss matters relating to the proposed action, including settlement without a hearing, or narrowing of legal or factual issues to be resolved at the hearing. A prehearing conference is not subject to any procedural requirements except as may be mutually agreed upon by the CELP Official and the institution. A prehearing conference may be held in any manner, including telephone calls or submission of written material, by the institution and the CELP Official. The Hearing Officer shall not participate in any prehearing conference.

As a result of the prehearing conference, the CELP Official and the institution may enter into a Prehearing Agreement which is a written stipulation whereby both the CELP Official and the institution stipulate, in writing and signed by both parties, to certain facts, procedures or points of law, regulation or policy and procedures. The CELP Official and the institution may enter into a written Consent Agreement which fully or partially settles the dispute between the parties. If the CELP Official and the institution enter into a written Consent Agreement which fully settles the dispute and the Consent Agreement so specifies, any pending hearing shall be cancelled. If the institution violates any of the provisions of the Consent Agreement the CELP Official may institute termination action.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. Renumbering of former Section 30309 to Section 30310, and renumbering of Section 30308 to Section 30309 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30310. Authority and Responsibilities of the Hearing Officer.

The Hearing Officer regulates the course of the proceedings, the conduct of the parties, and takes all steps necessary to ensure a fair and impartial hearing. The Hearing Officer shall take whatever measures are appropriate to expedite the proceeding. These measures may include, but are not limited to, setting a schedule for the submission of written documents and legal memoranda and setting page limitations on the filing of any memoranda. The Hearing Officer has the authority to treat a party to the hearing, who fails to abide by the orders of the Hearing Officer, as being in non-compliance and may issue a decision without a hearing against the non-complying party. If the Hearing Officer terminates a hearing pursuant to non-compliance he/she shall cause to be delivered a written decision by certified mail (return receipt requested) within thirty (30) days after such termination.

All decisions of the Hearing Officer shall be based on findings of fact and conclusions of law. The Hearing Officer shall base the findings of fact only on evidence considered at the hearing, stipulations of the parties, and matters given official notice.

The Hearing Officer does not have the authority to issue subpoenas. However, if requested by the Hearing Officer, the Director, California Student Aid Commission shall provide available personnel from the California Student Aid Commission who have knowledge about the matters under review, and the institution shall provide available personnel who have knowledge of the matters under review for oral examination.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. Renumbering of former Section 30310 to Section 30311, and renumbering of Section 30309 to Section 30310 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30311. Hearing on the Record and Decision.

The hearing shall take place in Sacramento, California at a place selected by the CELP Official, shall be attended by the CELP Official and the authorized representative of the institution, shall be limited to legal issues and those matters of fact to which the CELP Official and the institution have been unable to stipulate. The hearing process may be limited as agreed upon by the CELP Official, the institution, and the Hearing Officer in areas such as a restriction on the number of submissions, a hearing by telephone conference call, a review limited to the written records, or a certification by the parties to facts and issues not in dispute. The parties may enter into stipulations during the course of the hearing. Any stipulations agreed to shall be submitted to the Hearing Officer as soon as possible after the stipulation is executed. The institution may be represented by legal counsel at the hearing, but the CELP Official is under no obligation to provide such counsel. Formal rules of evidence and procedures applicable to proceedings in courts of law are not required.

There shall be no discovery proceedings under this subpart, but the parties are encouraged to exchange relevant documents or information, and the Hearing Officer shall only accept evidence that is relevant and material to the hearing. Parties may object to any evidence which they consider to be irrelevant, immaterial, or unduly repetitious.

A record shall be made of the hearing. The record of the hearing shall not be transcribed except upon request of a party. The party requesting the transcription, or seeking a copy of a transcription previously made, shall pay a reasonable fee not to exceed the actual cost thereof.

The Hearing Officer shall issue a written decision within thirty (30) days following the conclusion of the hearing except as otherwise provided in these regulations. A limitation, suspension, or termination, after the hearing, is effective on the second day following the date that a copy of the decision is mailed by certified mail (return receipt requested) to the institution or on the effective date stated in the decision, whichever is later.

The party not prevailing at the hearing shall pay the cost incurred for the employment of the Hearing Officer. If the institution must make payment of hearing expenses, said payment shall be made to the CELP Official within twenty (20) days of the decision. The CELP Official may take whatever action he/she deems appropriate, including offset and legal action, to collect the funds due from the institution. The CELP official may also collect interest on funds due, up to twelve (12) percent per annum, beginning with the date following the expiration of the twenty (20) days referred to above.

NOTE: Authority cited: Section 69763(a), Education Code. Reference: 20 U.S.C. 1078(b)(1)(T)&(U), 1082(h) and 1094(c); and 34 C.F.R. 668.81 - 668.97.

HISTORY

1. Renumbering of former section 30311 to section 30312, and renumbering of Section 30310 to Section 30311 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).
2. Amendment filed 2-9-90 as an emergency; operative 2-9-90 (Register 90, No. 7). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-11-90.
3. Certificate of Compliance as to 2-9-90 order transmitted to OAL 6-8-90 and filed 7-9-90 (Register 90, No. 34).

§ 30312. Other Hearing-Related Conditions.

If an institution, to which a notice is addressed, refuses to accept such notice, the notice shall be deemed to be received by the institution on the date that the institution refuses to accept delivery of the notice from the United States Postal Service.

Action to resolve liability may include an order requiring payment by the institution to the CELP Official, or to designated recipients, of any funds that the institution improperly received, withheld, disbursed, or caused to be disbursed under the CELP.

Nothing in this subpart shall preclude or prohibit the CELP Official and the institution from entering into an agreement to submit to binding arbitration in lieu of the hearing procedures contained herein.

With the approval and the consent of the CELP Official and the institution, any time schedule specified in this subpart may be shortened or ex-

tended unless the hearing has begun. After the hearing has begun, any such changes shall be solely at the Hearing Officer's discretion.

If a decision, based upon a Consent Agreement or upon a hearing or after appeal of a hearing, requires an institution to reimburse or make any other payment to the CELP Official, the CELP Official may offset these sums against any benefits or claim due to the institution.

The California Student Aid Commission's mailings and receipts shall be evidenced by original documents received from the United States Postal Service by the Commission.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. Renumbering of former Section 30312 to Section 30313, and renumbering of Section 30311 to Section 30312 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30313. Appeal.

A respondent party not prevailing at a hearing may seek final administrative remedy by appealing the Hearing Officer's decision to the eleven member California Student Aid Commission. The decision of the Hearing Officer will remain in effect pending the conclusion of this final administrative review. Request for, and necessity of, appeal shall be presented in writing to the CELP Official within twenty (20) days of the respondent's receipt of the Hearing Officer's decision. The appeal may be scheduled for review by the California Student Aid Commission and the time and place for the appeal, if granted, shall be given to the appellant within sixty (60) days of receipt of the request for appeal by certified mail (return receipt requested). Effective dates of these time restrictions are established by the postmarked dates of requests for appeal.

The respondent party seeking review by appeal shall limit its presentation solely to evidence introduced into the record at the hearing, stipulations of the parties, and matters that may be judicially noticed and shall make a reasonable showing that a prejudicial procedural error was committed in the conduct of the hearing or that the Hearing Officer's decision embodies a finding or conclusion of material fact which is clearly erroneous or embodies a legal conclusion which is erroneous.

In reaching its final administrative decision, the Commission shall consider only evidence introduced into the record at the hearing, stipulations of the parties, and matters that may be judicially noticed.

The Commission's decision may affirm, modify, or reverse the Hearing Officer's decision. The appellant shall be notified of the Commission's decision by mailing a notice by certified mail (return receipt requested) to the appellant within thirty (30) days of the date the appeal was heard by the Commission.

The California Student Aid Commission's decision to grant or not grant final administrative remedy by hearing an appeal, is not subject to judicial review. If, however, the Hearing Officer's decision is upheld by the Commission, or the request for an appeal is denied, such decisions shall be subject to review in accordance with the standards for judicial review established by law.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. Renumbering of former Section 30313 to Section 30314, and renumbering of Section 30312 to Section 30313 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30314. Removal of Limitations.

The Hearing Officer or CELP Official may set time limits for the expiration of limitations. An institution may request removal of limitations imposed under these regulations twelve (12) months after the effective date of the action to limit. Notwithstanding the foregoing, removal of limitations can only be requested in those cases in which a time limit was not set by the Hearing Officer or CELP Official. The request for removal of limitations must be in writing and state and substantiate the institution has corrected the violation(s) on which the limitations were based.

The CELP Official, within sixty (60) days of receiving the request shall grant the request, deny the request, or grant the request subject to other limitations. If a request for removal of limitation is denied or causes imposition of other limitations, the institution may again request such removal six (6) months after the date of the most recent request.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

HISTORY

1. Renumbering of former Section 30314 to Section 30315, and renumbering of Section 30313 to Section 30314 filed 8-23-88; operative 9-22-88 (Register 88, No. 35).

§ 30315. Reinstatement After Termination.

An institution whose participation has been terminated may file a request for reinstatement as an eligible institution. However, this request may not be made before the end of the twenty-fourth (24th) month after the effective date of the termination. The reinstatement request shall be in writing and shall state and substantiate that the institution has corrected the violation(s) on which its termination was based including payment in full to the CELP Official of all funds due the California Student Aid Commission, or to designated recipients, that the institution improperly received, withheld, disbursed, or caused to be disbursed, subject to independent review by the CELP Official.

The institution must meet all eligibility requirements for participation in the CELP, upon reinstatement after termination. An institution's application for reinstatement shall include an acceptable plan which indicates that its participation in the CELP will not result in further violations by it or the requirements of the programs. If a school, which is also a lender, was terminated as both a participating school and a lender, the school cannot be reinstated as a lender until it is reinstated as a participating school for a period of at least twelve (12) months.

The CELP Official will not grant reinstatement to an institution if it is owned, in whole or in part, directly or indirectly, by any person who has been convicted of a crime related to the abuse of any State or Federal Title IV financial aid program or if it continues to employ any individual who was shown to be an incompetent administrator during the termination proceeding or who was convicted of a crime related to the abuse of any State or Federal Title IV financial aid programs.

Within sixty (60) days of receiving a reinstatement request, the CELP Official will notify the institution in writing by certified mail (return receipt requested) of the decision to grant the request, deny the request, or grant the request subject to limitation. If a request for reinstatement is denied, the institution may again request reinstatement twelve (12) months after the date of the most recent request.

NOTE: Authority cited: Section 69763, Education Code. Reference: 20 U.S.C. 1078(b)(2), 1078-2(a); 34 C.F.R. 682.401(c)(2)(ii), 683.31(c)(2)(ii); and Section 69763, Education Code.

Article 12. The Paul Douglas Teacher Scholarship Program

§ 30500. General Provisions.

The Paul Douglas Teacher Scholarship Program is a federal program designed to encourage individuals to become teachers. It is administered at the federal level by the United States Department of Education. The federal laws relating to this program are found in Title 20 of the United States Code, Sections 1111 through 1111h. The federal regulations relating to this program are found in Title 34 of the Code of Federal Regulations, Part 653. The California Student Aid Commission has received approval from the United States Department of Education to administer this program in California. There are no California statutes directly relating to this program. The regulations in this article supplement the federal laws and regulations mentioned above.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111-1111h and Part 653, Title 34, Code of Federal Regulations.

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30501. New Applicant Eligibility Criteria.

The following eligibility criteria shall be used by the California Student Aid Commission for new applicants:

(a) For applicants who have completed fewer than 30 semester units or 45 quarter units of college:

(1) Applicants shall meet the California State residency requirements

as specified in Sections 68000 through 68134 of the California Education Code.

(2) Applicants shall agree to enroll in and attend schools with teacher preparation programs approved by the California Commission on Teacher Credentialing.

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(3) An applicant who receives preferential treatment because he or she intends to teach either Math or Science shall agree to pursue an undergraduate degree in that subject area and to pursue a single subject teaching credential in that subject area unless a written waiver to change to another subject area has been granted by the California Student Aid Commission.

(4) An applicant who receives preferential treatment because he or she intends to be a bilingual teacher shall agree to pursue a single subject or multiple subject teaching credential with a bilingual emphasis unless a written waiver of that requirement has been granted by the California Student Aid Commission.

(5) Applicants shall be free of any obligation to repay any state or federal educational grant and shall not be in default on any state or federal educational loan or any state or federally insured educational loan unless they have made arrangements satisfactory to the California Student Aid Commission for repaying the grant or loan and have made twelve consecutive monthly payments pursuant to those arrangements.

(b) For applicants who have completed 30 or more semester units or 45 or more quarter units of college:

(1) Applicants shall meet the California State residency requirements as specified in Sections 68000 through 68134 of the California Education Code.

(2) Applicants shall be enrolled in and attending schools with teacher preparation programs approved by the California Commission on Teacher Credentialing.

(3) An applicant who receives preferential treatment because he or she intends to teach either Math or Science shall agree to pursue an undergraduate degree in that subject area and to pursue a single subject teaching credential in that subject area unless a written waiver to change to another subject area has been granted by the California Student Aid Commission.

(4) An applicant who receives preferential treatment because he or she intends to be a bilingual teacher shall agree to pursue a single subject or multiple subject teaching credential with a bilingual emphasis unless a written waiver of that requirement has been granted by the California Student Aid Commission.

(5) Applicants shall be free of any obligation to repay any state or federal educational grant and shall not be in default on any state or federal educational loan or any state or federally insured educational loan unless they have made arrangements satisfactory to the California Student Aid Commission for repaying the grant or loan and have made twelve consecutive monthly payments pursuant to those arrangements.

(6) Applicants shall have achieved a minimum grade point average of 3.0 (based on a 4.0 scale).

(A) If the applicant is enrolled in a postsecondary institution at the time of application, the grade point average shall be based on the cumulative work attempted at that institution, unless the student has not completed at least 30 semester (45 quarter) units at that institution, in which case the grade point average shall be based on cumulative work attempted at all postsecondary institutions.

(B) If the applicant is not enrolled in a postsecondary institution at the time of application, the grade point average shall be based on the cumulative work attempted at all postsecondary institutions.

(7) Applicants who have completed all baccalaureate degree requirements shall be formally accepted into a fifth-year teacher preparation program beginning with the Fall term of the award year or, if formally attending a fifth-year teacher preparation program, shall be planning to continue formally in attendance during the fall term of the award year.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111(a), 1111b(c), and 1111d(b), and 34 CFR 653.2(b) and 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30502. Renewal Applicant Eligibility Criteria.

The following eligibility criteria shall be used by the California Student Aid Commission for the selection of renewal scholarship applicants:

(a) Applicants shall meet the California State residency requirements as specified in Sections 68000 through 68134 of the California Education Code.

(b) Applicants shall be enrolled in and attending schools with teacher preparation programs approved by the California Commission on Teacher Credentialing.

(c) An applicant who received preferential treatment because he or she intends to teach either Math or Science shall agree to pursue an undergraduate degree in that subject area and to pursue a single subject teaching credential in that subject area unless a written waiver to change to another subject area has been granted by the California Student Aid Commission.

(d) An applicant who received preferential treatment because he or she intends to be a bilingual teacher shall agree to pursue a single subject or multiple subject teaching credential with a bilingual emphasis unless a written waiver of that requirement has been granted by the California Student Aid Commission.

(e) Applicants shall be free of any obligation to repay any state or federal educational grant and shall not be in default on any state or federal educational loan or any state or federally insured educational loan unless they have made arrangements satisfactory to the California Student Aid Commission for repaying the grant or loan and have made twelve consecutive monthly payments pursuant to those arrangements.

(f) An applicant shall have achieved a grade point average that is equal to or greater than that required for entry into the appropriate teacher credential program at the campus that he or she is attending, provided that an applicant who has not achieved the required grade point average may nevertheless be deemed eligible for one academic year by the California Student Aid Commission if the applicant submits a written request and submits documentation showing that he or she did not achieve the required grade point average because of:

(1) Severe injury to the applicant, and/or

(2) Severe illness of the applicant.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111(a), 1111b(c), 1111d(b) and 1111e(2) and 34 CFR 653.2(b) and 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30503. Appointment of Institutional Paul Douglas Teacher Scholarship Program Coordinator.

California secondary schools and postsecondary institutions with teacher preparation programs approved by the Commission on Teacher Credentialing wishing to nominate students shall designate an Institutional Paul Douglas Teacher Scholarship Program Coordinator.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30504. New Applicant Application Process.

All new applicants shall apply for a scholarship using the following procedures:

(a) For students who will graduate from high school at the end of the current academic year:

(1) Complete an application designated by the California Student Aid Commission for the Paul Douglas Teacher Scholarship Program.

(2) File the completed application with the designated Paul Douglas Teacher Scholarship Coordinator at the applicant's California secondary school.

(b) For students who have graduated from high school:

(1) Complete an application designated by the California Student Aid Commission for the Paul Douglas Teacher Scholarship Program.

(2) File the completed application with the designated Paul Douglas Teacher Scholarship Coordinator at a college or university with a teacher preparation program approved by the Commission on Teacher Credentialing, which college or university they will attend commencing with the

fall term, and which college or university has a designated coordinator.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30505. New Applicant Nomination Process.

The Institutional Paul Douglas Teacher Scholarship Coordinator shall:

- (a) Review each application submitted for completeness and accuracy.
- (b) Review each application submitted to insure that the student meets the new applicant eligibility criteria.
- (c) Select two nominees through a process established by the institution which shall take into account the following criteria:
 - (1) High school grade point average, General Educational Development (GED) test score, college cumulative grade point average, or any combination of these;
 - (2) Combined Math and Verbal scores received on the Scholastic Aptitude Test (SAT) or composite scores received on the American College Test (ACT),
 - (3) High School class standing, and
 - (4) Demonstrated or expressed commitment to the teaching profession.
- (d) Submit the application of the two nominees to the California Student Aid Commission.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30506. New Applicant Scoring Process Used by the California Student Aid Commission.

Applications of nominees received by the California Student Aid Commission shall be scored in the following manner:

- (a) For an applicant who has completed fewer than 30 semester units or 45 quarter units of college the score shall be computed using one of the following formulas:

$$\text{Score} = \left\{ \begin{array}{l} \text{Overall high school} \\ \text{grade point average} \times 100 \end{array} \right\} + \left\{ \frac{\text{Combined Math \& Verbal} \\ \text{score on Scholastic} \\ \text{Aptitude Test (SAT)}}{10,000} \right\}$$

or

$$\text{Score} = \left\{ \begin{array}{l} \text{Overall high school} \\ \text{grade point average} \times 100 \end{array} \right\} + \left\{ \frac{\text{Composite} \\ \text{score on the American} \\ \text{College Test converted} \\ \text{to an equivalent} \\ \text{SAT score}}{10,000} \right\}$$

- (b) For an applicant who has completed 30 or more semester units or 45 or more quarter units of college, the score shall be computed using one of the following formulas:

$$\text{Score} = \left\{ \begin{array}{l} \text{Overall actual or} \\ \text{imputed college} \times 100 \\ \text{Overall high school} \\ \text{grade point average} \end{array} \right\} + \left\{ \frac{\text{Combined Math \& Verbal} \\ \text{score on Scholastic} \\ \text{Aptitude Test (SAT)} \\ \text{to an equivalent}}{10,000} \right\}$$

or

$$\text{Score} = \left\{ \begin{array}{l} \text{Overall actual or} \\ \text{imputed college} \times 100 \\ \text{grade point average} \end{array} \right\} + \left\{ \frac{\text{Composite} \\ \text{score on the American} \\ \text{College Test converted} \\ \text{to an equivalent} \\ \text{SAT score}}{10,000} \right\}$$

In subsection (B) of this section, "imputed college grade point average" means a number provided by an institution when that institution does not calculate actual grade point averages. The institution shall submit documentation showing that the imputed college grade point average

is statistically valid. An imputed college grade point average shall be used only when there is no actual college grade point average.

In this section "equivalent SAT score" means composite ACT score multiplied by 44.4444. An equivalent SAT score shall be computed only when there is no actual SAT score.

Grade point average shall be computed based on 4.0 as the maximum.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. References: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30507. New Applicant Ranking Process Used by the California Student Aid Commission.

- (a) Nominees shall be placed into one of the two following categories:
 - (1) Applicants who have completed fewer than 30 semester units or 45 quarter units of college; or
 - (2) Applicants who have completed 30 or more semester units or 45 or more quarter units of college.
- (b) Within each category, nominees shall be ranked in descending order by score (highest first).

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30508. New Applicant Selection Process Used by the California Student Aid Commission.

From the two ranking lists nominees shall be selected in order by rank, highest first, in a manner designed to use all currently available funds and to insure that there are funds for each selected individual during that individual's entire projected period of renewal eligibility.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30509. Renewal Applicant Application Process and Selection Process.

Each renewal applicant shall submit a completed application to the California Student Aid Commission.

All eligible renewal applicants shall be selected for the next year.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111d(b) and 34 CFR 653.32(a).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30510. Preferential Treatment for New Applicants Who Agree to Pursue Teaching Careers in the Areas of Math, Science, or Bilingual Education.

If applications received by the California Student Aid Commission from new applicants (nominees) exceed the number of available scholarships for new applicants, the names of individual applicants (nominees) who agree to pursue teaching careers in the areas of Math, Science, or Bilingual Education shall be moved to the tops of the two selection lists, shall be ranked there by score, and shall be selected first, provided that no more than 75% of the scholarships awarded for that year shall be awarded to applicants (nominees) who receive preference. If 75% of the scholarships awarded are awarded to applicants (nominees) who receive preference, then the two ranking lists shall be re-sorted by score, and the remaining 25% of the scholarships shall be awarded without regard to preference.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111b(c) and 34 CFR 653.32(b).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30511. Financial Awards Limited to Four Academic Years.

A selected scholar shall receive financial awards only during his or her sophomore, junior, senior, and/or fifth year of study. A student entering

the program as a freshman shall start receiving financial awards during his or her renewal year if renewal eligibility is maintained and if funds are available.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111c(a) and 34 CFR 653.21(a)(2).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30512. Equivalency of GED Test Scores.

A General Educational Development (GED) average standard test score of 62 or higher shall be deemed to be equivalent to ranking in the top 10% of the high school graduates of the nation.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 34 CFR 653.30(c)(2).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30513. Appeal Procedures for Applicants and Scholars.

A scholar or an applicant may appeal any adverse determination by the California Student Aid Commission in the following manner:

(a) Provide a written notice of appeal which includes a concise statement of the action which is being challenged;

(b) Mail the notice of appeal postmarked within 20 calendar days following the date appearing on the letter being appealed; and

(c) Pursue appeals before the following individuals or entities, in the order presented:

- (1) Program Coordinator, California Student Aid Commission.
- (2) Deputy Director of Grants, California Student Aid Commission.
- (3) Executive Director, California Student Aid Commission; and
- (4) The California Student Aid Commission.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 34 CFR 653.40(c)(2).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30514. Prorating Repayment According to Fraction of Teaching Obligation Not Completed.

(a) The principal amount a scholar shall repay for failure to fulfill the teaching obligation for a particular award year is determined by the following formula:

$$\frac{\text{Years of teaching obligation for that award year not completed}}{\text{Total years of teaching obligation for that award year}} \times \text{Scholarship amount for that award year} = \text{Scholarship amount to be repaid for that award year}$$

(b) The definition of a teaching year shall be the same as that used by the school or school district in which the scholar teaches.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111f and 34 CFR 653.42(a)(1).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30515. Collection Costs.

Collection costs shall include attorney fees, court filing fees, fees for service of process, and telephone and mail costs directly incurred in the collection effort.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 20 U.S.C. 1111f and 34 CFR 652.42(a)(3).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30516. Alteration of Repayment Schedule When Scholar's Financial Condition Warrants.

The California Student Aid Commission shall determine whether to reduce the amount of the required periodic payments for a scholar who does the following, in writing, at any time during the repayment process:

(a) Asks for a reduction of the periodic payment to a specified amount; and

(b) Asks for the payment reduction for a specified period of time, indicating the date of the commencement of the payment of the reduced amount and the date when it will return to its set amount; and

(c) Explains the reason for and provides appropriate documentation of a financial hardship; and

(d) Agrees to make supplemental payments after the lower payment period to complete repayment within the time specified by law.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 34 CFR 653.42(d)(2)(ii).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

§ 30517. Documentation Required for Claim That Repayment Obligation Is Temporarily Suspended.

A recipient who is required to repay a scholarship shall not be considered in violation of the repayment provisions as long as the recipient:

(a) Is engaging in a full-time course of study at an institution of higher education and provides the California Student Aid Commission (CSAC) with verification of full-time enrollment from the institution;

(b) Is serving, not in excess of three years, on active duty as a member of the armed services of the United States and provides the California Student Aid Commission with a letter from the commanding officer certifying the date of entry and expiration of active obligated service;

(c) Is temporarily totally disabled, for a period not to exceed three years, as established by sworn affidavit of a qualified physician;

(d) Is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled as established by sworn affidavit of a qualified physician;

(e) Is seeking and unable to find full-time employment for a single period not to exceed twelve months as established by sworn affidavit of the scholar; or,

(f) Is unable to satisfy the terms of the repayment schedule established by the California Student Aid Commission and is also seeking and unable to find full-time employment as a teacher in a public or private non-profit pre-school, elementary school, or secondary school, or in a public or private nonprofit pre-school, elementary, or secondary education program for a single period not to exceed 27 months as established by the sworn affidavit of the scholar.

NOTE: Authority cited: Sections 69741 and 69742, Education Code. Reference: 34 CFR 653.42(h).

HISTORY

1. New section filed 12-14-88; operative 1-13-89 (Register 88, No. 53).

Article 13. The California Teacher Shortage Loan Assumption Program

§ 30600. Participant Eligibility.

NOTE: Authority cited: Section 69602, Education Code. Reference: Sections 69600, 69601 and 69601.5, Education Code.

HISTORY

1. New Article 13 (Sections 30600-30607) filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

2. Change without regulatory effect repealing section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30601. Terms of Loan Assumption.

NOTE: Authority cited: Section 69602, Education Code. Reference: Sections 69606(b) and 69607, Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30602. Cancellation of NDSL Loans for Teaching Service.

NOTE: Authority cited: Section 69602, Education Code. Reference: Section 69601(b)(2), Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30603. Verification of Qualifying Teaching Service.

NOTE: Authority cited: Section 69602, Education Code. Reference: Section 69602, Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30604. Disqualifying Loan Status.

NOTE: Authority cited: Section 69602, Education Code. Reference: Sections 69601 and 69602, Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30605. Disability Deferral of Loan Liability.

NOTE: Authority cited: Section 69602, Education Code. Reference: Sections 69602 and 69608(b), Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30606. Assumption Allocation.

NOTE: Authority cited: Section 69602, Education Code. Reference: Section 69606, Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

§ 30607. Participant Selection.

NOTE: Authority cited: Section 69602, Education Code. Reference: Sections 69601, 69601.5 and 69602, Education Code.

HISTORY

1. Change without regulatory effect repealing Section filed 2-16-88; operative 2-16-88 (Register 88, No. 9).

Article 14. Assumption Program of Loans for Education

§ 30701. Loan Programs Approved by the California Student Aid Commission.

The California Student Aid Commission approves for loan assumption any loan which falls into one of the following categories:

- (a) Loans to students made pursuant to the United States Code, Title 20, Chapter 28, Subchapter IV, which is incorporated into this section by reference, and
- (b) Privately funded educational loans to students issued through institutions of higher education for the purpose of defraying the costs associated with obtaining a baccalaureate degree or an initial California teaching credential.

NOTE: Authority cited: Section 69615, Education Code. Reference: Section 69613(b)(4)(B), Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).
2. Amendment of subsection (a) and amendment of NOTE filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30702. Applications by Individuals Who Agree to Participate in a Teacher Trainee Program.

(a) Any person who agrees to participate in a teacher trainee program may send to any participating institution a written request for an application to participate in the Assumption Program of Loans for Education.

(b) Each participating institution shall consider and respond to each request for an application submitted by a person who agrees to participate in a teacher trainee program.

(c) Each participating institution shall consider and respond to each application submitted by a person who agrees to participate in a teacher trainee program.

NOTE: Authority cited: Section 69615, Education Code. Reference: Sections 69613 and 69614(a), Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).

§ 30703. Reallocation of Unused Warrants and Cancellation of Invalid Warrants.

(a) In this section, an "unused warrant" is a warrant allocated to a participating institution which that institution does not or cannot use.

(b) In this section, an "invalid warrant" is:

(1) A warrant held by a person not yet eligible to receive a full California Teaching Credential who has become ineligible to continue participation in the Assumption Program of Loans for Education, or

(2) A warrant held by a person eligible to receive a full California Teaching Credential who did not redeem that warrant within 36 months of the date when that person became eligible for that credential.

(c) Each participating institution which does not use all of its allocated warrants shall provide to the California Student Aid Commission a number representing the total number of warrants which will be issued to applicants who agree to obtain a teaching credential in mathematics or science, and each participating institution which does use all of its allocated warrants shall provide to the California Student Aid Commission, in writing,

(1) A number representing the total number of warrants which will be issued to applicants who agree to obtain a teaching credential in mathematics or science, and

(2) A number representing the number of additional warrants it could use, and, from among that number, the number which would be used for applicants who agree to obtain a teaching credential in mathematics or science, if additional warrants were available.

(d) Having received the information provided by participating institutions, the California Student Aid Commission shall determine whether the required minimum number of applicants who agree to obtain a teaching credential in mathematics or science has been achieved, and,

(1) If so, during the school year for which the warrants were allocated, reallocate all unused warrants to participating institutions, giving to each institution a number of warrants which bears the same ratio to the total number of unused warrants as the number of warrants which that institution could use if additional warrants were available bears to the total number of warrants which all institutions could use if additional warrants were available, and

(2) If not,

(A) During the school year for which the warrants were allocated, reallocate unused warrants, up to the minimum required number of warrants for math and science applicants, to participating institutions which did use all their allocated warrants, giving to each institution a number of warrants to be issued only to math and science applicants which bears the same ratio to the total number of unused math and science warrants as the number of math and science warrants which that institution could use if additional warrants were available bears to the total number of math and science warrants which all institutions could use if additional warrants were available, and

(B) During the school year for which the warrants were allocated, reallocate all remaining unused warrants to participating institutions, giving to each institution a number of warrants which bears the same ratio to the total number of unused non-math-and-science warrants as the number of non-math-and-science warrants which that institution could use if additional warrants were available bears to the total number of non-math-and-science warrants which all institutions use if additional warrants were available.

(e) All invalid warrants shall be cancelled. No invalid warrant shall be reallocated.

NOTE: Authority cited: Sections 69613(g), 69613.2(b), 69613.55 (Stats. 1998, c. 330 (S.B. 1564).) and 69615, Education Code. Reference: Sections 69613, 69613.2, 69613.55 (Stats. 1998, c. 330 (S.B. 1564).) and 69614(a), Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).

2. Amendment of section and NOTE filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30704. Commencement and End of School Year.

A "school year" commences on July 1 and ends on June 30 of the following year.

NOTE: Authority cited: Section 69615, Education Code. Reference: Sections 37200 and 69613.4, Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).

§ 30705. Federal Perkins Loan Program Loan Held by an Individual Eligible for Cancellation of That Loan.

A Federal Perkins Loan Program loan becomes non-assumable in its entirety upon the teacher's becoming eligible for cancellation of any part of that loan pursuant to the provisions of the Code of Federal Regulations, Title 34, Subtitle B, Chapter VI, Part 674, Subpart D, which is incorporated into this section by reference.

NOTE: Authority cited: Section 69615, Education Code. Reference: Sections 69613(b)(4) and 69613.4, Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).

2. Amendment of section heading and section filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30706. Payment.

(a) Each year, for each assumable loan, the teacher shall do all of the following with a form provided by the California Student Aid Commission:

(1) Obtain on the form a statement by the lender of the balance owed by the teacher as of June 30.

(2) Obtain on the form the written verification of that balance by the lender, and

(3) Return the form to the California Student Aid Commission.

(b) Each year, for each assumable loan, the California Student Aid Commission shall pay to the lender either the maximum assumable amount or the loan balance as of June 30, whichever is smaller, in the following order of priority:

(1) All assumable loans guaranteed by the California Student Aid Commission, ranked in descending order by rate of interest (highest interest rate first, lowest last), and

(2) All other assumable loans ranked in descending order by rate of interest (highest interest rate first, lowest last).

NOTE: Authority cited: Section 69615, Education Code. Reference: Section 69613.4, Education Code.

HISTORY

1. New section filed 10-13-88; operative 11-12-88 (Register 88, No. 43).

2. Amendment of subsection (b)(1), repealer of subsection (b)(2) and subsection renumbering filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30707. Achieving the Required Minimum Number of Warrants to be Issued to Applicants Who Agree to Obtain a Teaching Credential in Mathematics Or Science.

(a) When distributing applications to participating institutions, the California Student Aid Commission shall notify each institution of the minimum number of awards which must be made to applicants who agree to obtain a teaching credential in mathematics or science, within the group of awards made to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction.

(b) Each participating institution, upon receiving notice from the California Student Aid Commission, shall make at least the minimum number of awards to applicants who agree to obtain a teaching credential in mathematics or science, within the group of awards made to applicants who agree to obtain a teaching credential in subject areas that are designated as current or projected shortage areas by the Superintendent of Public Instruction.

NOTE: Authority cited: Section 69615, Education Code. Reference: Sections 69613(d), 69613.55 (Stats. 1998, c. 330 (S.B. 1564).) and 69614(a), Education Code.

HISTORY

1. New section filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30708. Out-of-State Teacher Recruitment Warrants.

(a) Each year the California Student Aid Commission shall allocate warrants to each county, for the purpose of recruiting out-of-state teachers, using the following formula:

(1) Each county shall get one warrant from those warrants authorized for out-of-state recruitment, and

(2) From the remaining warrants authorized for out-of-state recruitment, each county shall get that number of warrants which bears the same ratio to the total number of such warrants as the number of teachers in that county who received either One Year Non-Renewable Credentials or Two Year Preliminary Credentials during the previous year bears to the total number of One Year Non-Renewable Credentials and Two Year Preliminary Credentials issued during the previous year.

(b) Each year the California Student Aid Commission shall notify each County Office of Education of the number of warrants allocated to that county that year.

(c) Each year each County Office of Education shall:

(1) Solicit, from every School District in that county, nominations of individuals to receive warrants;

(2) From those nominated by the School Districts select individuals to receive warrants on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews, and

(E) Other recommendations; and

(3) Forward to the California Student Aid Commission the names of the selected individuals.

(d) Upon receipt from a County Office of Education of names of selected individuals, the California Student Aid Commission shall issue a warrant to each selected individual provided that:

(1) The individual does not currently live in California and is not currently employed as a teacher in California.

(2) The individual has received one or more loans in the Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.) or any other loan program described in Section 30701 above.

(3) The individual has agreed to teach in a public school in California for at least four consecutive academic years, and

(4) The individual has not previously received a warrant.

NOTE: Authority cited: Sections 69613.5(b) and 69615, Education Code. Reference: Section 69613.5(a), Education Code.

HISTORY

1. New section filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

§ 30709. Reallocation of Unused Out-of-State Teacher Recruitment Warrants and Cancellation of Invalid Out-of-State Teacher Recruitment Warrants.

(a) In this section, an "unused warrant" is an out-of-state teacher recruitment warrant allocated to a county which that county does not or cannot use.

(b) In this section, an "invalid warrant" is an out-of-state teacher recruitment warrant held by an individual who did not complete a full year of eligible teaching service by the end of the school year in which the warrant was issued.

(c) Each county which uses all of its allocated out-of-state teacher recruitment warrants shall provide to the California Student Aid Commission, in writing, a number representing the number of additional such warrants it could use if additional warrants were available.

(d) During the school year for which the warrants were allocated, the California Student Aid Commission shall reallocate all unused warrants to counties, giving to each county a number of warrants which bears the

same ratio to the total number of unused warrants as the number of warrants which that county could use if additional warrants were available bears to the total number of warrants which all counties could use if additional warrants were available.

(e) All invalid warrants shall be cancelled. No invalid warrant shall be reallocated.

NOTE: Authority cited: Sections 69613.5(b) and 69615, Education Code. Reference: Section 69613.5(a), Education Code.

HISTORY

1. New section filed 6-7-99; operative 7-7-99 (Register 99, No. 24).

Article 14.5. National Guard Assumption Program of Loans for Education

§ 30710. Definitions.

(a) "Contingency operation" means the current Iraq or Afghanistan operations, the Gulf War; or other operations or national emergencies, as declared by the President or Congress.

(b) "Half-time basis" means half-time enrollment at an institution of higher education.

(c) "Institution of higher education" means a post-secondary educational institution that has a location in California.

(d) "Program" means the National Guard Assumption Program of Loans for Education established in Article 12.5 (commencing with Section 69750) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code and as set forth in this Article.

(e) "Program participant" means a person who has a loan assumption agreement signed by both the person and the Commission.

(f) "Qualified vocational diploma program" means an educational program as defined in Section 94746 of the Education Code, with a location in California, having all of the following characteristics:

(1) The educational program consists of a job-training program or other instruction, training, or education that the institution represents will lead to, fit, or prepare students for employment in any occupation.

(2) The program is offered to students who do not possess a bachelor's or graduate degree in the field of training.

(3) Students who complete all or a portion of the program are awarded a diploma, certificate, or occupational associate degree.

(g) "Qualifying member" means a person, as defined in Section 66025.6(a) of the Education Code, who:

(1) has residence, pursuant to Article 5 (commencing with Section 68060) of Chapter 1, part 41, Division 5, Title 3 of the Education Code, in this state for at least one year immediately preceding the date of application to the program or any loan assumption payment;

(2) is currently an active member of, and has satisfactorily served for at least one year in the California National Guard, the State Military Reserve or the Naval Militia, and maintains satisfactory service throughout the period that his or her student loan payments are assumed through the program; and

(3) has completed a baccalaureate degree, or is currently enrolled and in good standing in a program of undergraduate instruction, on at least a half-time basis, at an institution of higher education, or is enrolled in or has completed a program of instruction in a qualified vocational diploma program where enrollment qualifies a student for participation in the Federal Family Education Loan Program or any loan program approved by the Commission, or is on an academic leave of absence from such undergraduate or vocational diploma program pursuant to Section 66025.6(b).

(h) "Satisfactory service" means satisfactory performance as defined by the statewide Office of the Adjutant General.

(i) "Academic year" means a period of time as defined by institutions of higher education or qualified vocational diploma programs attended by the participant.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 66025.6, 69750, 69750.5, 69750.7, 69751.2 and 94746, Education Code.

HISTORY

1. New article 14.5 (sections 30710-30718) and section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30711. Application to Participate in the Program.

(a) Applications to participate in the program shall be submitted to the Office of the Adjutant General. The application shall include the following information regarding the applicant:

- (1) Last name, first name and middle initial;
- (2) Social Security number;
- (3) Address and telephone number;
- (4) Date of birth;
- (5) Ethnicity;
- (6) Gender;
- (7) E-mail address, if available;

(8) a copy of the federal Student Aid Report (SAR) generated by the United States Department of Education based upon the applicant's Free Application for Federal Student Aid (FAFSA) with an Expected Family Contribution (EFC) for the academic year in which the applicant applies to the program. Verification of information provided in the FAFSA and used to calculate the EFC may be requested by the Commission as necessary. Failure to provide verification in a timely manner, if requested, may result in disqualification from consideration for the program;

(9) identification of membership in specific eligible military unit under the California National Guard;

(10) name of institution of higher education or qualified vocational diploma program in which applicant is or was enrolled within California, or from which the applicant is on academic leave of absence, and the institution's six-digit Federal school code;

(11) a copy of active duty orders, if any;

(12) written verification from an institution of higher education that the applicant is enrolled on at least a half-time basis or is on academic leave of absence, or proof of completion of a baccalaureate degree, or written verification from a qualified vocational diploma program that the applicant is enrolled or on academic leave of absence, or proof that the applicant has completed the program;

(13) certification from the Office of the Adjutant General that the applicant has agreed to enlist, reenlist, or in the case of officers has committed to serve in the National Guard, the State Military Reserve, or the Naval Militia; and

(14) The name of lender(s), loan identification number(s), and current balance(s) of a loan or loans the applicant has received, or has been approved to receive, in order to meet the costs of obtaining an undergraduate degree at an institution of higher education or to complete a qualified vocational diploma program, under one or more of the following designated loan programs:

(i) the Federal Family Education Loan Program (20 U.S.C. Sec. 1071 *et seq.*);

(ii) the Federal Direct Loan Program (20 U.S.C. Sec. 1087b *et seq.*);

(iii) any loan program approved by the Commission on a case by case basis but not including lines of credit, home equity loans, credit card debt, and other general consumer loans, business loans, personal loans, or mortgages.

(b) The application shall state that by signing, the applicant agrees that, if requested, the applicant will provide information or documentation to verify the accuracy of the information included in the application, and the applicant understands that failure to provide accurate and complete information as requested may result in disqualification from the program and loss of program benefits. The application shall be dated and signed by the student under penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 66025.6, 69750, 69750.3, 69751.2 and 69751.3, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30712. Nominations by the Office of the Adjutant General.

The Office of the Adjutant General may nominate any applicant who has submitted an application to participate in the program that meets the requirements of Section 30711 by submitting all of the following information to the Commission:

(a) the applicant's complete application, including the applicant's SAR;

(b) the Office of the Adjutant General's certification that the applicant has agreed to enlist, reenlist, or in the case of officers, has committed to serve in the National Guard, the state Military Reserve, or the Naval Militia; and

(c) the Office of the Adjutant General's certification of the applicant's active duty status corresponding to the scoring categories established in Section 30714(b).

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 66025.6(c), 69750.3 and 69751.2, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30713. Award Process.

The Commission shall select program participants from among the applicants who are nominated pursuant to Section 30712. If the maximum allocation of warrants authorized for that year is not exhausted after the selection process is completed, the Commission may continue to accept nominations and select program participants based on the date the nominations are received by the Commission. The Commission may continue to select participants until the maximum allocation is reached.

NOTE: Authority cited: Section 69751, Education Code. Reference: Section 69751.8, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30714. Applicant Priority.

(a) If the Commission determines in any fiscal year that the funding for the program is insufficient to allow the Commission to enter into loan assumption agreements with all eligible applicants who are nominated, the Commission shall select applicants for participation in the program by giving priority to:

(1) Individuals who are financially needy, as indicated by a household income and asset level that is at or below the maximum established in Education Code Section 69432.7 for participants in the Cal Grant A program; and

(2) Individuals who have been called to full-time active military duty.

(b) In implementing the priority established in subsection (a), the Commission shall award points to individuals determined by the Commission to be financially needy and who have been called to active duty, based on the highest point category that the applicant qualifies under, as follows:

ACTIVE DUTY SERVICE	POINTS
An enlisted California National Guard member who has served or is currently serving on federal active duty under Title 10 or Title 32, U.S.C. for a period of not less than 11 consecutive months under a contingency operation	76
A commissioned officer or warrant officer of the California National Guard who has served or is serving on federal active duty under Title 10 or Title 32, U.S.C. for a period of not less than 11 consecutive months under a contingency operation.	70
An enlisted California National Guard member who has served or is currently serving on federal active duty under Title 10 or Title 32, U.S.C. for a period of not less than 5 consecutive months under a contingency operation.	66

ACTIVE DUTY SERVICE

POINTS

A commissioned officer or warrant officer of the California National Guard who has served or is serving on federal active duty under Title 10 or Title 32, U.S.C. for a period of not less than 5 consecutive months under a contingency operation.

60

Any California National Guard, State Military Reserve or Naval Militia member, enlisted or officer, who has served on State Active Duty pursuant to Military and Veterans Code §143 or §146 for no less than 30 consecutive days.

56

Any current member of the California National Guard, State Military Reserve or Naval Militia who is satisfactorily attending unit drill and training assemblies.

50

(c) The Commission will select nominees with the highest number of points until the authorized funding is exhausted. In the case of a tie in the number of points, the Commission will select nominees based on the earliest date of receipt of the nomination by the Commission.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 69432.7 and 69751.2, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30715. Loan Assumption Agreements.

(a) The Commission shall provide a loan assumption agreement to each nominated applicant selected by the Commission to be a program participant. The loan assumption agreement shall be effective when both the program participant and the Commission have signed the agreement.

(b) The loan assumption agreement shall include the following:

(1) The program participant shall agree to:

(i) maintain satisfactory service in the California National Guard, State Military Reserve or the Naval Militia throughout the period that he or she participates in the program;

(ii) be enrolled in an institution of higher education, on at least a half-time basis each academic term, or in a qualified vocational diploma program, and in good standing in such institution or program, through completion of academic requirements for a baccalaureate degree or completion of the vocational diploma program. If participant has completed a baccalaureate degree or vocational diploma program or completes a baccalaureate degree or vocational diploma program during the term of the agreement, he or she is not required to maintain enrollment for the remaining qualifying year(s) of service to receive loan assumption benefits. Participants called to active duty who are on academic leave of absence are not required to be enrolled during the term of such leave;

(iii) provide four consecutive years of satisfactory service in the National Guard, the State Military Reserve, or the Naval Militia;

(iv) authorize the institution of higher education or qualified vocational diploma program in which the applicant is enrolled or on academic leave of absence, or where the applicant completed a baccalaureate degree or vocational diploma program, the Office of the Adjutant General, and lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement;

(v) provide information required by the Commission for the purposes of administering the loan assumption agreement; and

(vi) comply with all applicable laws and regulations applicable to the program.

(2) The Commission shall agree that:

(i) upon receipt of information required by Section 30716, including the certification of the Office of the Adjutant General that the program participant has completed one year of service or in the case of a participant who is eligible because he or she has agreed to reenlist or an officer who has committed to serve one year of additional service, as a qualifying member within the meaning of Section 66025.6 of the Education Code, the Commission shall assume, subject to the requirements of Section

69750.7 of the Education Code, up to two thousand dollars (\$2,000) of the outstanding loan liability related to undergraduate or qualifying vocational training of the participant under one or more of the designated loan programs:

(ii) upon receipt of the information required by Section 30716, including certification by the Office of the Adjutant General that the program participant has completed two consecutive years of service or in the case of a participant who is eligible because he or she has agreed to reenlist or an officer who has committed to serve two consecutive years of additional service, as a qualifying member within the meaning of Section 66025.6 of the Education Code, the Commission shall assume, subject to the terms of Section 69750.7 of the Education Code, up to an additional three thousand dollars (\$3,000) of the outstanding loan liability related to undergraduate or qualifying vocational training of the participant under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars (\$5,000); and

(iii) upon receipt of the information required by Section 30716, including certification by the Office of the Adjutant General that the program participant has completed three consecutive years of service or in the case of a participant who is eligible because he or she has agreed to reenlist or an officer who has committed to serve three consecutive years of additional service, as a qualifying member within the meaning of Section 66025.6 of the Education Code, the Commission shall assume, subject to the terms of Section 69750.7 of the Education Code, up to an additional three thousand dollars (\$3,000) of the loan outstanding liability related to undergraduate or qualifying vocational training of the participant under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars (\$8,000).

(iv) upon receipt of the information required by Section 30716, including certification by the Office of the Adjutant General that the program participant has completed four consecutive years of service or in the case of a participant who is eligible because he or she has agreed to reenlist or an officer who has committed to serve four consecutive years of additional service, as a qualifying member within the meaning of Section 66025.6 of the Education Code, the Commission shall assume, subject to the terms of Section 69750.7 of the Education Code, up to an additional three thousand dollars (\$3,000) of the loan outstanding liability related to undergraduate or qualifying vocational training of the participant under one or more of the designated loan programs, for a total loan assumption of up to eleven thousand dollars (\$11,000).

(c) The term of the loan assumption agreement shall be no more than ten (10) years from the date signed by the program participant and the Commission.

(d) The loan assumption agreement shall constitute a conditional warrant that may be redeemed with the Commission as specified in Section 30716.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 66025.6, 69750.3, 69750.5 and 69750.7, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30716. Loan Payments.

(a) A program participant may redeem the conditional warrant and the Commission shall make loan payments, pursuant to the loan assumption agreement and as provided in subsection (b), when the Commission has received the following information for each qualifying year of service for which payment is to be made:

(1) from each lending institution, for each loan that qualifies for the assumption under the program and the loan assumption agreement:

- (i) program participant's name and social security number;
- (ii) account number;
- (iii) interest rate;
- (iv) disbursement date;
- (v) payoff amount as of June 30;

(vi) lending institution/servicer name;

(vii) lending institution/servicer eight-digit identification code;

(viii) address to which payment is to be sent;

(ix) a signature of the lending institution official under penalty of perjury of the laws of the state of California certifying that this loan information is correct;

(x) printed name, telephone number and email address of the lending institution official;

(2) certification from the Office of the Adjutant General that the program participant completed the year of satisfactory service required for a loan assumption payment to be made;

(3) verification from the institution of higher education or qualified vocational diploma program, of enrollment status or of academic leave of absence for the academic year corresponding with the year of military service or verification that participant has completed the vocational diploma program or a baccalaureate degree. Such verification is not required of participants who had completed their baccalaureate degree or vocational diploma program prior to acceptance as a participant in the program and submitted verification of completion with their application to the program pursuant to Section 30711.

(b) Loan payments made by the Commission shall be made by lump-sum payment to the lender, to be applied directly to the principal balance, if not otherwise prohibited by applicable law or by the terms of the loan agreement between the program participant and the lender. Payments shall first be made toward qualifying loans with the highest interest rates. The program participant shall continue to make payments as required under the terms of the loans to avoid defaulting on those loans, until notified by the lenders or loan servicers that the loans are paid in full.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 69750.5 and 69750.7, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30717. Failure to Comply with the Loan Assumption Agreement.

(a) A program participant who fails to comply with the terms of the loan assumption agreement shall be withdrawn from the program. Failure to comply includes but is not limited to failing to complete one of the four consecutive years of military service, or to maintain the required enrollment in an institution of higher education or vocational diploma program, unless the participant was on academic leave of absence for active duty or completed a baccalaureate degree or the vocational diploma program. The program participant shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

(b) A program participant who is entitled to an academic leave of absence because he or she is on active duty, pursuant to Section 66025.6 of the Education Code, shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

NOTE: Authority cited: Section 69751, Education Code. Reference: Sections 66025.6, 69750.3, 69750.7 and 69751, Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 30718. Development of Projections for Funding Purposes.

The Commission shall use the number of active program participants at the end of each year and their application dates and number of years in the program to project the funding level required to provide loan payments under the program.

NOTE: Authority cited: Section 69751, Education Code. Reference: Section 69751(a), Education Code.

HISTORY

1. New section filed 4-23-2007; operative 4-23-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

Article 15. Process for Selecting an Organization to Provide Financial Need Analysis and Related Services and to Act as the Sole Processor of the SAAC

§ 30801. Definitions.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Sections 69510, 69534, 69534.1, and 69534.3(a), Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30802. Competitive Means; Exceptions.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12102(a), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30803. Basis for Selection.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12102(b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30804. Use of Consultant Services by CSAC.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12101(b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30805. Solicitation of Prospective Competitors.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12101(b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30806. Exclusion of Prospective Competitors.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12102(h), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30807. Required Steps in the Selection Process.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30808. Request for Proposal (RFP).

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30809. Confidentiality.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30810. Questions and Answers.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30811. Role of the Evaluation Team.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30812. Submission of Proposals: Time, Manner, and Handling.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30813. Final Proposal.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30814. Issuance of Notice of Intent to Award.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30815. Timing of Award.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12102(f), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30816. Protests.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12102(f), Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30817. Options.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12103, Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30818. Actions on Contracts; Limitations.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 19100, Public Contract Code.

HISTORY

1. New section filed 3–14–88; operative 4–13–88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3–2–89 (Register 89, No. 11).

§ 30819. Contract to Enable Acquisition of Additional Items.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12102(e), Public Contract Code.

HISTORY

1. New section filed 3-14-88; operative 4-13-88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3-2-89 (Register 89, No. 11).

§ 30820. Contractual Terms and Conditions.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Sections 12101(a) and (b), Public Contract Code.

HISTORY

1. New section filed 3-14-88; operative 4-13-88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3-2-89 (Register 89, No. 11).

§ 30821. Confidentiality of Data.

NOTE: Authority cited: Section 69534.1, Education Code. Reference: Section 69534.1, Education Code; and Section 12101(a), Public Contract Code.

HISTORY

1. New section filed 3-14-88; operative 4-13-88 (Register 88, No. 13).
2. Change without regulatory effect pursuant to Section 100, Title 1, California Code of Regulations repealing section filed 3-2-89 (Register 89, No. 11).

Article 16. Federal Family Education Loan Program

§ 30901. Insurance Premium Rate and the Fiscal Soundness of the Reserve Fund.

The insurance premium rate shall be reviewed annually by the Loan Study Council, or its successor, and a recommendation shall be made to the California Student Aid Commission for consideration in resetting the insurance premium rate. The Loan Study Council, or its successor, shall review the revenue and expenditure forecasts of the Federal Family Education Loan program administered by the California Student Aid Commission and make recommendations to the Commission related to the fiscal soundness of the reserve fund.

NOTE: Authority cited: Section 69763, Education Code. Reference: Sections 69761.5 and 69769.5, Education Code.

HISTORY

1. New section filed 7-17-97; operative 7-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 29).

§ 30902. Lender Agreement.

Any eligible lending institution must complete a signed agreement with the California Student Aid Commission, or its agent, before any Federal Family Education Loan made by the lender shall be guaranteed.

NOTE: Authority cited: Section 69763, Education Code. Reference: 34 CFR 682.401(b)(7).

HISTORY

1. New article 16 (sections 30902-30904) and section filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30903. Lender and School Reviews.

Every school and lender participating in the Federal Family Education Loan program administered by the California Student Aid Commission shall be reviewed on a regular basis as provided in 34 CFR Part 682 by the California Student Aid Commission or its designee. In addition, the California Student Aid Commission may require self-certified audits of both schools and lenders participating in the program.

NOTE: Authority cited: Section 69763, Education Code. Reference: 34 CFR 682.410(c).

HISTORY

1. New section filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

§ 30904. Transmittal of Manifest and Fees, and Cancellation of Non-Disbursed Loan Guarantees by the Commission.

Lenders shall submit to the California Student Aid Commission, or its designee, a manifest of loan transactions (i.e. disbursements, cancellations and any other transactions) within 45 calendar days of the date a loan transaction occurs or the lender learns of the transaction. Insurance premium fees shall be submitted to the Commission along with the manifest for all loans recorded as disbursements on the manifest or shall be submitted to the Commission within 30 calendar days of the date an insurance premium fee billing is sent to the lender. A loan which remains in a guaranteed, but non-disbursed status on the Commission's data base for more than 150 calendar days after the anticipated disbursement date shall have its guarantee canceled by the Commission. If such a loan had actually been disbursed, the lender may request reinstatement of the guarantee by providing the Commission with a written request for reinstatement including an explanation of the reason for the loan's non-disbursed status, a manifest and the appropriate insurance premium fee. This request shall be postmarked or received within 60 days of the date of the cancellation notification.

NOTE: Authority cited: Section 69763, Education Code. Reference: Section 428(b)(1)(H), Higher Education Act of 1965, as amended.

HISTORY

1. New section filed 6-24-97; operative 6-24-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 26).

Article 17. State Nursing Assumption Program of Loans for Education for Nursing Faculty (SNAPLE-NF)

§ 30910. Definitions.

"Academic year" means a period as determined by the employing regionally accredited California college or university.

"Accredited college or university" means a college or university that has been accredited by a national or regional accrediting body, including, but not limited to, Middle States Association of Colleges and Schools, The Northwest Commission on Colleges and Universities, North Central Association of Colleges and Schools, New England Association of Schools and Colleges, Inc./Commission on Institutions of Higher Education, Southern Association of Colleges and Schools/Commission on Colleges, and Western Association of Schools and Colleges/Accrediting Commission for Senior Colleges and Universities.

"Cost of Attendance" means the student budget at the participating institution for the nominated student that includes tuition, fees, housing, food, books, transportation and personal expenses for the year. It may also include an allowance for the rental or purchase of a computer, child care or other dependent care costs and additional expenses for students with disabilities not already covered.

"Demonstrated academic ability" means academic standing consistent with or superior to the requirements established by the accredited college or university for satisfactory progress toward graduation or the award of the graduate or undergraduate degree.

"Demonstrated financial need" means financial need as determined under Article 1.5 (commencing with Section 69503) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code.

"Eligible applicant" means:

(1) a student who has been admitted to or is enrolled in a baccalaureate level or graduate level degree program in nursing or a field related to nursing and who submits an application pursuant to Section 30911 and agrees to teach nursing at a regionally-accredited college or university within 12 months of obtaining degree, and has received or is approved to receive, a loan under one or more of the designated loan programs, or any loan program approved by the Student Aid Commission, or

(2) an individual who has completed a baccalaureate level or graduate level degree program in nursing or a field related to nursing within the award year he or she applies for the program and who submits an applica-

tion pursuant to section 30911 and agrees to teach nursing at a regionally-accredited college or university within 12 months of obtaining the degree, and has received or is approved to receive, a loan under one or more of the designated loan programs, or any loan program approved by the Student Aid Commission.

"Eligible noncitizen" means a United States resident as defined for financial aid purposes under Title IV of the federal Higher Education Act of 1965, 20 U.S.C. Section 1091(a)(5).

"Full-time" and "full-time basis" means full-time employment, as determined by the employing regionally accredited California college or university.

"Half-time basis" means half-time enrollment as determined by the participating institution.

"Natural disaster" means a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety. (California Government Code, Section 8680.3)

"Other natural causes" means a disease, or physical or mental condition involving inpatient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code section 12945.2 or the federal Family and Medical Leave Act of 1993.

"Participating institution" and "eligible institution" and "eligible school or college" means an accredited college or university that has elected to participate in the program by submitting nominations of students to the Commission under the provisions of this Article.

"Part-time" and "part-time basis" means part-time employment, as determined by the employing regionally accredited California college or university.

"Program" means the State Nursing Assumption Program of Loans for Education for nursing faculty established in Article 1 (commencing with section 70100) of Chapter 3 of Part 42 of Division 5 of Title 3 of the Education Code and as set forth in this Article.

"Program participant" means an individual who has a loan assumption agreement signed by both the individual and the Commission.

"Regionally accredited California college or university" means a college or university that has been accredited by a regional accreditation body and is located in California.

"Satisfactory academic progress" means academic standing consistent with the requirements of the accredited college or university for satisfactory progress toward the award of the graduate or undergraduate degree.

"Serious illness" means an illness involving inpatient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code section 12945.2 or the federal Family and Medical Leave Act of 1993.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102, 70103, 70104 and 70105, Education Code.

HISTORY

1. New article 17 (sections 30910–30917) and section filed 5–7–2007; operative 5–7–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).

2. Amendment of article heading, repeal of subsection designators and new definition of "Eligible applicant" filed 6–10–2008; operative 6–10–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30911. Application to Participate in the Program.

Applications to participate in the program shall be submitted by the eligible applicant to his or her participating institution. The application shall be submitted to the Commission by the June 30th deadline and shall include the following information regarding the eligible applicant:

(a) Applicant's personal information, including:

- (1) Last name, first name and middle initial;
- (2) Social Security number;
- (3) Address and telephone number;
- (4) Date of birth;
- (5) E-mail address, if available;

(6) California registered nurse license number, if available;

(7) for an applicant in an undergraduate degree program, a copy of the federal Student Aid Report (SAR) generated by the United States Department of Education based upon the applicant's Free Application for Federal Student Aid (FAFSA) with an Expected Family Contribution (EFC) for the academic year in which the applicant applies to the program. Verification of information provided in the FAFSA and used to calculate the EFC may be requested by the Commission as necessary. Failure to provide verification in a timely manner, if requested, may result in disqualification from consideration for an award;

(8) the name of the regionally-accredited college or university that the eligible applicant is teaching nursing and the date the eligible applicant commenced employment, if applicable;

(9) the date the applicant has or is expected to receive his or her undergraduate or graduate degree in nursing or a field related to nursing.

(b) The applicant's representations that he or she:

(1) is a United States citizen or eligible noncitizen;

(2) is a resident of California;

(3) is in compliance with Selective Service requirements;

(4) does not owe a refund on any state or federal educational grant;

(5) does not currently have a delinquent or defaulted student loan.

(6) has not received a grant as an instructor in a California community college registered nursing program pursuant to Article 3.51 commencing with Section 78260 of the Education Code;

(c) The name of the accredited college(s) or university(ies), as applicable, at which the applicant:

(1) is enrolled on at least a half-time basis in an academic program leading to a baccalaureate or graduate degree in nursing or a field related to nursing;

(2) has obtained a baccalaureate or graduate level degree within the award year he or she applies for the program; or

(3) is accepted on at least a half-time basis to a program leading to a baccalaureate or graduate degree in nursing or a field related to nursing;

(d) Statement that the applicant agrees to:

(1) maintain satisfactory academic progress through completion of baccalaureate or graduate degree program; and

(2) teach in a nursing program on a full-time basis at one or more regionally accredited California colleges or universities for at least three consecutive academic years, or on a part-time basis for the equivalent of three full-time academic years, starting within twelve (12) months after obtaining a degree in nursing or a field related to nursing unless, within twelve (12) months after obtaining such a degree, the participant enrolls in a program leading to a more advanced academic degree in nursing or a field related to nursing;

(e) The name of lender, type of loan, loan identification number(s), and current balance(s) of a loan or loans the applicant has received, or has been approved to receive, under one or more of the following designated loan programs:

(1) the Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.);

(2) the Federal Direct Loan Program (20 U.S.C. Sec. 1087b et seq.);

(3) any loan program approved by the Commission on a case by case basis but not including lines of credit, home equity loans, credit card debt, and other general consumer loans, business loans, personal loans, or mortgages;

(f) For applicants who are enrolled in an undergraduate program, the student's cost of attendance at the participating institution for the academic year of application to the program.

(g) The application shall state that by signing, the applicant agrees that, if requested, the applicant will provide information or documentation to verify the accuracy of the information included in the application, and the applicant understands that failure to provide accurate and complete information as requested may result in disqualification from the program and loss of program benefits. The application shall be dated and signed by the applicant under penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102, 70103, 70105 and 70107, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
2. Amendment of first paragraph and subsection (b)(7), new subsections (b)(8)-(9) and amendment of subsections (c)(2)-(3), (d)(1) and (e) filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30912. Nominations by a Participating Institution.

(a) A participating institution may nominate one or more eligible applicants who have submitted applications to participate in the program meeting the requirements of Section 30911 by submitting to the Commission by the June 30th deadline all of the following information regarding each eligible applicant:

(1) the applicant's complete application, including applicant's name, social security number, and the SAR for an undergraduate applicant;

(2) the participating institution's certifications of the following information:

(i) the applicant:

A. is enrolled in a baccalaureate or graduate degree program in nursing or a field related to nursing in which the applicant is, enrolled on at least a half-time basis;

B. has been admitted to a baccalaureate or graduate degree program in nursing or a field related to nursing in which the applicant will be enrolled on at least a half-time basis, or

C. has successfully completed a baccalaureate or graduate degree program within the award year he or she applies for the program in nursing or a field related to nursing in which the applicant was enrolled on at least a half-time basis;

(ii) the applicant's grade point average;

(iii) the applicant:

A. is making satisfactory academic progress; or

B. was making satisfactory academic progress at the time of graduation;

(iv) the applicant has demonstrated academic ability;

(v) it is an accredited college or university; and

(vi) the date the applicant has or is expected to receive his or her undergraduate or graduate degree in nursing or a field related to nursing;

(vii) the type of degree the applicant is pursuing or has completed

(viii) the applicant's field of study

(3) the participating institution's determination that the applicant has demonstrated outstanding ability to become a nursing faculty member, on the basis of the following criteria:

(i) grade point average; and

(ii) faculty evaluation of the applicant's ability to become a nursing faculty member based on the factors used by the participating institution to hire nursing faculty;

(4) for applicants who are undergraduates, the applicant's cost of attendance for the academic year of application to the program.

(b) Each nomination, including the certifications required by this section, submitted by a participating institution shall be signed by the director of the participating institution's nursing program or designee under penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102, 70103, 70107 and 70108, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
2. Amendment of section and NOTE filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30913. Award Process.

(a) The Commission shall select program participants from among the eligible applicants whose applications and nominations are complete and are received by the Commission by the June 30th deadline date each academic year and who are determined by the Commission to meet all requirements for participation established in the Education Code. If the maximum authorized allocation of awards is not exhausted after this

selection process is completed, the Commission may continue to accept nominations and select program participants based on the date the nominations are received by the Commission. The Commission may continue to make awards until the maximum authorized allocation is exhausted.

(b) The Commission shall only consider and select from among nominated applicants with demonstrated academic ability. In addition, undergraduate applicants may only be considered if they have demonstrated financial need. The Commission shall determine that such financial need exists if the applicant's cost of attendance at the participating institution for the academic year exceeds the applicant's EFC for that year.

(c) Nominated applicants enrolled in or who have completed graduate degree programs will be scored and awarded points using the following selection criteria:

(1) Points will be awarded according to the length of time remaining until the applicant is expected to receive the graduate degree in nursing or a field related to nursing, as follows:

GRADUATE DEGREE	POINTS
Completion Within Four Years or Less	20
Completion Within Three Years or Less	30
Completion Within Two Years or Less	40
Completion Within One Year or Less	50
Completed Program within award year applicant applies for the program	60

(2) Points will be awarded based on the applicant's grade point average in the graduate program in nursing or a field related to nursing as follows:

GRADUATE GPA	POINTS
2.99 or Less	0
3.00-3.24	10
3.25-3.49	15
3.50-3.74	20
3.75-3.99	25
4.00	30

; or

(ii) Nominated applicants enrolled in graduate degree programs who do not have a grade point average established in the graduate program at the time of application may submit the grade point average from their baccalaureate degree program.

(A) Points will be awarded based on the applicant's grade point average in the baccalaureate degree program in nursing or a field related to nursing as follows:

BACCALAUREATE GPA	POINTS
2.99 or Less	0
3.00-3.24	05
3.25-3.49	7.5
3.50-3.74	10
3.75-3.99	12.5
4.00	15

(d) Nominated applicants enrolled in or who have completed undergraduate degree programs and who have been determined to have demonstrated financial need pursuant to subsection (b) will be scored and awarded points using the following selection criteria:

(1) Points will be awarded according to the length of time remaining until the applicant is expected to receive the baccalaureate degree in nursing or a field related to nursing, as follows:

BACCALAUREATE DEGREE	POINTS
Completion Within Four Years or Less	10
Completion Within Three Years or Less	15
Completion Within Two Years or Less	20
Completion Within One Year or Less	25
Completed Degree within award year applicant applies for the program	30

(2) Points will be awarded based on the applicant's grade point average in the baccalaureate degree program in nursing or a field related to nursing as follows:

BACCALAUREATE GPA	POINTS
2.99 or Less	0
3.00-3.24	05
3.25-3.49	7.5
3.50-3.74	10
3.75-3.99	12.5
4.00	15

(e) In addition to the points based on expected date of degree award and GPA, 20 points will be awarded to any nominated applicant with an active registered nurse license issued by the California Board of Registered Nursing.

(f) The Commission will select nominees with the highest point totals until the authorized award allocation is exhausted. In the case of a tie in the total number of points, the Commission will select nominees based on the earliest date of expected graduation and in the case of a secondary tie, by the highest grade point average.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70105, 70107 and 70109, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
2. Amendment of subsections (a) and (c)-(c)(2), new subsections (c)(2)(i)-(c)(2)(ii)(A) and amendment of subsections (d)-(d)(1) filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30914. Loan Assumption Agreements.

(a) The Commission shall provide a loan assumption agreement to each nominated eligible applicant selected by the Commission to be a program participant. The loan assumption agreement shall be effective when both the program participant and the Commission have signed the agreement.

(b) The loan assumption agreement shall include the following:

(1) For a program participant who is enrolled in or admitted to a nursing degree program, the program participant's agreement to:

- (i) maintain satisfactory academic progress;
- (ii) maintain enrollment on at least a half-time basis each academic term at an accredited college or university;
- (iii) continue to satisfy the eligibility requirements in section 30911(b)(1)-(6);

(iv) teach nursing on a full-time basis at one or more regionally accredited California colleges or universities for at least three consecutive academic years, or part-time for the equivalent of three full time academic years, starting within twelve (12) months after obtaining a baccalaureate or graduate degree in nursing or a field related to nursing, unless, within twelve (12) months after obtaining such a degree, the participant enrolls in a program leading to a more advanced academic degree in nursing or a field related to nursing;

(v) authorize the accredited college or university attended by the applicant, employers, and lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement; and

(vi) comply with all laws and regulations applicable to the program.

(vii) notify the Commission of starting date of employment within 2 weeks of obtaining eligible employment.

(2) For a program participant who has successfully completed a baccalaureate or graduate level degree in nursing or a field related to nursing at the time of application, the program participant's agreement to:

(i) continue to satisfy the eligibility requirements in section 30911(b)(1)-(6);

(ii) teach nursing on a full-time basis at one or more regionally-accredited California colleges or universities for at least three consecutive academic years, or part-time for the equivalent of three full time academic years, within twelve (12) months of receiving the degree;

(iii) authorize the accredited college or university attended by the applicant, employers, and lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement; and

(iv) comply with all laws and regulations applicable to the program.

(v) authorize the accredited college or university attended by the applicant, employers, and lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement; and

(vi) comply with all laws and regulations applicable to the program.

(vii) notify the Commission of starting date of employment within 2 weeks of obtaining eligible employment.

(3) The Commission shall agree that:

(i) after the program participant has completed one academic year of teaching nursing studies on a full-time basis, or the equivalent on a part-time basis, at one or more regionally accredited California colleges or universities, the Commission shall assume, subject to the requirements of section 30915, up to eight thousand three hundred thirty-three dollars (\$8,333) of the outstanding liability of the participant under one or more of the designated loan programs;

(ii) after the program participant has completed two consecutive academic years of teaching nursing studies on a full-time basis, or the equivalent on a part-time basis, at one or more regionally accredited California colleges or universities, the Commission shall assume, subject to the terms of section 30915, up to an additional eight thousand three hundred thirty-three dollars (\$8,333) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to sixteen thousand six hundred sixty-six dollars (\$16,666); and

(iii) after the program participant has completed three consecutive academic years teaching nursing studies on a full-time basis, or the equivalent on a part-time basis, at one or more regionally accredited California colleges or universities, the Commission shall assume, subject to the terms of section 30915, up to an additional eight thousand three hundred thirty-four dollars (\$8,334) of the outstanding liability of the participant under one or more of the designated loan programs, for a total loan assumption of up to twenty-five thousand dollars (\$25,000).

(c) The term of the loan assumption agreement shall be no more than 10 years from the date signed by the program participant and the Commission unless extended pursuant to Section 30916.

(d) The loan assumption agreement shall constitute a conditional warrant that may be redeemed with the Commission as specified in section 30915. A participant in this program shall not receive more than one loan assumption agreement.

(e) The loan assumption agreement shall include the participant's certification that he or she understands:

(1) The consequences of failing to comply with the loan assumption agreement as specified in section 30916

(2) The requirements to redeem the conditional warrant as specified in section 30915

(3) he or she must respond to all communications and request from the Commission within ten business days

(4) he or she must report any change in status that may affect his or her SNAPLE-NF eligibility

(5) If it is determined that a loan assumption payment was authorized based on misleading or incorrect information, he or she will be required to reimburse the Commission

(6) he or she must comply with all laws and regulations applicable to the program

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102, 70103 and 70106, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
2. Amendment of subsections (a) and (b)(1), new subsections (b)(1)(vii)-(b)(2)(vii), subsection renumbering and new subsections (e)-(e)(6) filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30915. Loan Payments.

(a) A program participant may redeem the conditional warrant and the Commission shall make loan payments, pursuant to the loan assumption agreement and as provided in Section 30914 and subsection (c), when the Commission has received the following information for each qualifying year of teaching:

(1) documentation certifying that the program participant has received a baccalaureate or graduate degree in nursing or a field related to nursing from an accredited, participating institution;

(2) the following employment information for each applicable year of employment subject to the loan assumption agreement:

- (i) program participant's name and social security number;
- (ii) names and addresses of the program participant's employers;
- (iii) program participant's signature under penalty of perjury under the laws of the State of California.

(3) the following employment information from the participant's employer(s) for each applicable year of employment subject to the loan participation agreement:

(i) statement that the program participant completed an academic year of teaching nursing on a full-time basis, or, if the program participant is employed on a part-time basis, the percentage of employment as related to a full-time academic year.

(ii) statement that the employer is a regionally accredited California college or university;

(iii) employer representative's printed or typed name, title, and telephone number;

(iv) employer representative's signature under penalty of perjury under the laws of the State of California;

(v) certification that the participant has not received a grant pursuant to Article 3.51 commencing with Section 78260 of the Education Code.

(4) the following information from each lending institution for each loan that qualifies for payment under the program and the loan assumption agreement:

- (i) program participant's name and social security number;
- (ii) account number for each loan;
- (iii) interest rate for each loan;
- (iv) disbursement date for each loan;
- (v) payoff amount for each loan as of June 30;
- (vi) indication for each loan whether the loan is delinquent or in default;
- (vii) lending institution/servicer name;
- (viii) lending institution/servicer eight-digit servicer identification code;
- (ix) address for where payment is to be sent;
- (x) a signature of the lending institution official under penalty of perjury under the laws of the State of California
- (xi) printed name of the lending institution official;
- (xii) e-mail address of the lending institution official;
- (xiii) telephone number of the lending institution official;

(5) the Commission has determined that the program participant has satisfied the requirements for payment to be made under the loan assumption agreement.

(b) A program participant who teaches on less than a full-time basis is not eligible for a loan payment until he or she teaches for the equivalent of a full-time academic year.

(c) Loan payments shall be made by lump-sum payment to the lender, to be applied directly to the principal balance, if not otherwise prohibited by applicable law or by the terms of the loan agreement between the program participant and the lender. Payments shall first be made toward loans with the highest interest rates. The program participant shall continue to make payments as required under the terms of the loans to avoid defaulting on those loans, until notified by the lenders or loan servicers that the loans are paid in full.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102 and 70103, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).

§ 30916. Failure to Comply with the Loan Assumption Agreement.

(a) Except as otherwise specified in subsections (b) and (c), a program participant who fails to meet the requirements for payment pursuant to the terms of the loan assumption agreement, including failure to maintain half-time enrollment or satisfactory academic progress while attending an accredited college or university or failure to complete a minimum of three consecutive academic years of teaching in nursing at one or more

regionally accredited California colleges or universities on a full-time basis, or the equivalent on a part-time basis, will not qualify for loan payment. The loan assumption agreement shall be deemed terminated, and the Commission shall not make any further payments. The participant shall retain responsibility to continue to make any payments required for any remaining loan obligations under the terms of any outstanding loans to avoid defaulting on those loans but shall not be required to repay any loan payments previously made through the program.

(b) If a program participant is unable to complete one of the three consecutive academic years of teaching nursing at one or more regionally accredited California colleges or universities on a full-time basis, or the equivalent on a part-time basis, due to serious illness, pregnancy, or other natural causes, the term of the loan assumption agreement shall be extended for a period not to exceed one academic year. The Commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements specified have been satisfied. The program participant shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

(c) If a natural disaster prevents a program participant from completing one of the required academic years of teaching service due to the interruption of instruction at the employing regionally accredited California college or university, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the interruption of instruction at the employing regionally accredited California college or university to the resumption of instruction. The Commission shall make no further payments under the loan assumption agreement until the applicable teaching requirements have been satisfied. The program participant shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

NOTE: Authority cited: Section 70106, Education Code. Reference: Sections 70101, 70102, 70103 and 70104, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
2. Amendment of subsection (a) filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30917. Development of Projections for Funding Purposes.

The Commission shall use program participants' expected dates of graduation and employment dates to project the funding level required to provide loan payments under the program.

NOTE: Authority cited: Section 70106, Education Code. Reference: Section 70106, Education Code.

HISTORY

1. New section filed 5-7-2007; operative 5-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).

Article 18. State Nursing Assumption Program of Loans for Education for Nurses in State Facilities (SNAPLE-NSF)

§ 30920. Definitions.

(a) "Accelerated program" means an approved pre-licensure nursing program that enables a student to complete the instructional program in less time than a traditional program, as determined by the institution.

(b) "Accredited program" means a pre-licensure nursing program approved by the California Board of Registered Nursing pursuant to Business and Professions Code Sections 2785 through 2789.

(c) "Eligible applicant" means:

(1) a student, who has completed a minimum of 60 semester units or the equivalent, and has been admitted to or is enrolled in an approved pre-licensure nursing program, and who submits an application pursuant to Section 30921 and agrees to work in a state-operated facility in an eligible position, and has received or is approved to receive, a loan under

one or more of the designated loan programs, or any loan program approved by the Student Aid Commission, or

(2) an individual who has completed an approved pre-licensure nursing program within the award year that he or she applies for the program, and who has applied or is applying for licensure as a registered nurse in California, and who submits an application pursuant to section 30921 and agrees to work in a state-operated facility in an eligible position, and has received or is approved to receive, a loan under one or more of the designated loan programs, or any loan program approved by the Student Aid Commission. However, a person who is currently employed as a registered nurse in a state-operated 24-hour facility is not eligible to enter into an agreement for loan assumption.

(d) "Eligible institution" means a postsecondary institution that is determined by the Commission to meet both of the following requirements: the institution is eligible to participate in state and federal financial aid programs, and the institution maintains an accredited program of professional preparation for licensing as a registered nurse in California.

(e) "Eligible position" means a position in a state-operated facility that appears on the list of Approved Positions for the State Nursing Assumption Program of Loans for Education for Nurses in State Facilities provided by the Student Aid Commission (see Attachment A).

(f) "Employed on a full-time basis" means employed in an eligible position as a registered nurse, in a full-time capacity as defined by the employing, state-operated facility.

(g) "Enrolled on a full-time basis" means enrolled as a pre-licensure registered nurse student, in a full-time capacity as defined by the eligible institution.

(h) "Natural disaster" means a fire, flood, storm, tidal wave, earthquake, terrorism, epidemic, or other similar public calamity that the Governor determines presents a threat to public safety. (California Government Code, Section 8680.3)

(i) "Need-based student loans" means federally subsidized student loans or other student loans awarded based on the student's demonstrated financial need.

(j) "Other natural causes" means a disease, or a physical or mental condition involving in-patient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code Section 12945.2 of the federal Family and Medical Leave Act of 1993.

(k) "One year" means twelve calendar months.

(l) "Program" means the State Nursing Assumption Program of Loans for Education for Nurses in State Facilities established in Article 2 (commencing with Section 70120 of Chapter 2 of Part 42 of the Education Code) and as set forth in this Article.

(m) "Program participant" means an individual who has a loan assumption agreement signed by both the individual and the Commission.

(n) "Registered nurse" means a person who possesses a valid license to practice as a professional registered nurse in California and provides patient care services in an eligible position as identified in the list of Approved Positions for the State Nursing Assumption Program of Loans for Education for Nurses in State Facilities (see Attachment A).

(o) "Satisfactory academic progress" means academic standing consistent with the requirements of the eligible institution for satisfactory progress toward the completion of the pre-licensure nursing program.

(p) "Serious illness" means an illness involving in-patient care in a hospital or residential health care facility, or continuing treatment or continuing supervision by a health care provider, or family care and medical leave under Government Code Section 12945.2 or the federal Family and Medical Leave Act of 1993.

(q) "State-operated facility" means a state-operated facility in California that:

- (1) provides health care 24 hours per day, 7 days per week, including but not limited to prisons, psychiatric hospitals and veterans' homes;
- (2) employs registered nurses;

(3) has a vacancy rate greater than 10 percent of its registered nurse positions as determined by the Department of Personnel Administration; and,

(4) is included on the list of state-operated facilities provided annually to the Commission by the Department of Personnel Administration pursuant to Education Code Section 70121.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70120, 70121, 70124, 70125 and 70128, Education Code.

HISTORY

1. New article 18 (sections 30920–30927) and section filed 5–30–2007; operative 5–30–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
2. Amendment of article heading and subsection (c) filed 6–10–2008; operative 6–10–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30921. Application to Participate in the Program.

(a) CSAC applications to participate in the program shall be submitted to the Commission by the June 30 deadline and shall include the following information regarding the applicant:

- (1) Last name, first name and middle initial;
- (2) Social Security number;
- (3) Address and telephone number;
- (4) Date of birth;
- (5) E-mail address, if available;
- (6) The name of the lender, loan identification number(s), type of loan or loans (need-based or non-need-based), and current balance(s) of a loan or loans the applicant has received, or has been approved to receive, in order to meet the costs of the applicant's education under one or more of the following designated loan programs (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of applicant):

(A) the Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.);

(B) the Federal Direct Loan Program (20 U.S.C. Sec. 1087b et seq.);

(C) any educational loan program approved by the Commission on a case by case basis, but not including lines of credit, home equity loans, credit card debt, and other general consumer loans, business loans, personal loans, or mortgages;

and,

(7) proof that the applicant possesses a baccalaureate degree, if applicable.

(8) Ethnicity;

(9) Gender;

(10) Type of program of professional preparation applicant is attending or has attended

(11) the name of the state-operated facility the eligible applicant is employed at and the date the eligible applicant commenced employment, if applicable;

(12) the name of the college the eligible applicant is attending or has attended;

(13) the college's federal school code.

(b) Applications to participate in the program from applicants who are admitted to, or are enrolled in an accredited program shall include the following information regarding the applicant:

(1) Certification from an eligible institution of the applicant's current admission or enrollment as specified in Section 30922(a);

(2) Certification from an eligible institution that the applicant has completed a minimum of 60 post-secondary semester units or the equivalent;

(3) Statement that the applicant agrees to:

(A) maintain satisfactory academic progress and full-time enrollment;

(B) obtain and maintain a California registered nurse license within 12 months of completing the pre-licensure nursing program; and,

(C) obtain and maintain employment, within 6 months of obtaining a California registered nurse license, as a registered nurse in an eligible

position in a state-operated facility, as defined in Section 30920(q), on a full-time basis for four consecutive years.

(c) Applications to participate in the program from applicants who have completed a pre-licensure nursing program within the award year that he or she applies for the program, but have not obtained a California registered nursing license shall include the following information regarding the applicant:

(1) Certification from an eligible institution that the applicant has completed a pre-licensure nursing program and the date completed as specified in Section 30922(a);

(2) Statement that the applicant agrees to:

(A) obtain and maintain a California registered nurse license within 12 months of completing the pre-licensure nursing program

(B) obtain and maintain employment, within 6 months of obtaining a California registered nurse license, as a registered nurse in an eligible position in a state-operated facility, as defined in Section 30920(q), on a full-time basis for four consecutive years.

(d) Applications to participate in the program from applicants who have completed a pre-licensure nursing program within the award year that they apply for the program and who possess a current California registered nursing license, shall include the following information regarding the applicant:

(1) Certification from an eligible institution that the applicant has completed a pre-licensure nursing program and the date completed as specified in Section 30922(a);

(2) California Registered Nurse License number and expiration date;

(3) Statement that the applicant agrees to:

(A) obtain and maintain employment, within 6 months of being accepted into the program, as a registered nurse in an eligible position in a state-operated facility, as defined in Section 30920(q), on a full-time basis for four consecutive years.

(e) The application shall state that by signing, the applicant agrees that, if requested, the applicant will provide information or documentation to verify the accuracy of the information included in the application, and the applicant understands that failure to provide accurate and complete information as requested may result in disqualification from the program and loss of program benefits. The application shall be dated and signed by the applicant under penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70120, 70122, 70125 and 70128, Education Code.

HISTORY

1. New section filed 5-30-2007; operative 5-30-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

2. Amendment of subsections (a) and (a)(7) and new subsections (a)(8)-(a)(13) filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30922. Certification from Eligible Institution.

(a) All applicants shall submit certification from an eligible institution to the Commission by the June 30 deadline, including:

(1) the type of program, whether accelerated or traditional;

(2) that the applicant is, or if admitted will be, enrolled on a full-time basis, or that the applicant completed the pre-licensure nursing program and the that completion date;

(3) that the applicant, if enrolled, is maintaining satisfactory academic progress; and,

(4) that the eligible institution has determined that the applicant has demonstrated outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) grade point average;

(B) test scores;

(C) faculty evaluations;

(D) interviews; and

(E) other recommendations.

(5) the applicant's grade point average for the pre-licensure nursing program;

(6) the number of remaining semesters or quarters the applicant is expected to take to complete the pre-licensure program and the projected completion date;

(7) certification that the institution is eligible to participant in state and federal financial aid programs;

(8) certification that the institution maintains an accredited program of professional preparation for licensing as a registered nurse in California;

(9) the applicant's last name, first name and middle initial;

(10) the applicant's Social Security Number;

(11) each certification submitted by an eligible institution shall be signed by the director of the institution's nursing program or designee under penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Section 70125, Education Code. Reference: Section 70120, 70125, 70126 and 70128, Education Code.

HISTORY

1. New section filed 5-30-2007; operative 5-30-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

2. Amendment of subsections (a) and (a)(6), new subsections (a)(7)-(a)(10) and subsection renumbering filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30923. Award Process.

(a) The Commission shall select program participants from among those applicants whose applications are complete and are received by the Commission by the June 30 deadline, and who are determined by the Commission to meet all requirements for participation established in the Education Code. If the authorized allocation of awards is not exhausted after this selection process is completed, the Commission may continue to accept applications and select program participants based on the date the applications are received by the Commission. The Commission may continue to make awards until the authorized allocation is exhausted.

(b) In the event that the number of applications from eligible applicants exceeds the maximum allocation of awards, the Commission shall score and award points to eligible applicants using the following selection criteria:

(1) Applicants who have completed a baccalaureate degree at time of application shall receive 25 points.

(2) Applicants who are currently enrolled in or who completed an accelerated program within the award year he or she applies for the program shall receive 25 points.

(3) Applicants who have an outstanding balance on a federally subsidized student loan(s) or other need-based student loan(s) disbursed prior to the date of registered nurse license of applicant shall receive 25 points.

(4) Nominated applicants in pre-licensure nursing programs or applicants who have completed a pre-licensure program within the award year that he or she applies for the program will be scored and awarded points using the following selection criteria:

(A) Points will awarded according to the length of time remaining until the applicant is expected to complete the pre-licensure nursing program, as follows:

<i>Completion of Pre-licensure Nursing Program</i>	<i>POINTS</i>
Completion Within/Longer Than Six Quarters or Four Semesters	0
Completion Within Five Quarters	2.5
Completion Within Three Semesters	3.75
Completion Within Four Quarters	5
Completion Within Three Quarters or Two Semesters	7.5
Completion Within Two Quarters	10.0
Completion Within One Semester	11.25
Completion Within One Quarter	12.5
Completed Pre-Licensure Nursing Program	15

(B) Points will be awarded based on the applicant's grade point average in the pre-licensure nursing program in nursing as follows:

<i>Pre-licensure Nursing GPA</i>	<i>POINTS</i>
2.99 or Less	0
3.00-3.24	2
3.25-3.49	4
3.50-3.74	6
3.75-3.99	8
4.00	10

(c) After assignment of the scores specified in subsection (b), the Commission will select nominees with the highest point totals until the authorized award allocation is exhausted. In the case of a tie in the total number of points, the Commission will select nominees based on the date the application is received by the Commission.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70125 and 70128, Education Code.

HISTORY

1. New section filed 5–30–2007; operative 5–30–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
2. Amendment of subsection (a) filed 6–10–2008; operative 6–10–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30924. Loan Assumption Agreements.

(a) The Commission shall provide a loan assumption agreement to each applicant who has been chosen by the Commission to be a program participant. The loan assumption agreement shall be effective when both the program participant and the Commission have signed the agreement.

(b) The loan assumption agreement shall include for participants who are enrolled in or admitted to an approved program, the program participant's agreements to:

- (1) maintain satisfactory academic progress;
- (2) maintain enrollment on a full-time basis each academic term;
- (3) apply for and obtain a license to practice as a registered nurse in California within 12 months of completing the pre-licensure nursing program;

(4) obtain and maintain full-time employment, within 6 months of obtaining a California registered nurse license, for four consecutive years in an eligible position as a registered nurse in a state-operated facility, as defined in Section 30920(q); and

(5) authorize the eligible institution that the applicant is attending, future employers from state operated facilities, and student loan lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement;

(6) notify the Commission of starting date of employment within 2 weeks of obtaining eligible employment.

(c) The loan assumption agreement shall include for participants who have completed a pre-licensure nursing program within the award year that he or she applies for the program the program participant's agreements to:

(1) apply for and obtain a license to practice as a registered nurse in California within 12 months of completing the pre-licensure nursing program, if the participant has not already obtained his or her license;

(2) obtain and maintain full time employment, within 6 months of obtaining a California registered nurse license, or within 6 months of entering the program if the participant holds a registered nurse license prior to entering into the program, for four consecutive years in an eligible position as a registered nurse in a state-operated facility, as defined in Section 30920(q); and

(3) authorize the eligible institution that the applicant attended, future employers from state-operated facilities, and student loan lenders to provide information requested by the Commission for the purposes of administering the loan assumption agreement.

(4) notify the Commission of starting date of employment within 2 weeks of obtaining eligible employment.

(d) The Commission shall agree that:

(1) after the program participant has completed one year of full time employment in an eligible position as a registered nurse in a state-operated facility, the Commission shall assume, subject to the requirements of Section 30925, up to five thousand dollars (\$5,000) of the outstanding liability under one or more of the designated loan programs (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of participant);

(2) after the program participant has completed two consecutive years of full time employment in an eligible position as a registered nurse in a state-operated facility, the Commission shall assume, subject to the terms of Section 30925, up to an additional five thousand dollars

(\$5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to ten thousand dollars (\$10,000) (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of participant); and.

(3) after the program participant has completed three consecutive years of full time employment in an eligible position as a registered nurse in a state-operated facility, the Commission shall assume, subject to the terms of Section 30925, up to an additional five thousand dollars (\$5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to fifteen thousand dollars (\$15,000) (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of participant); and.

(4) after the program participant has completed four consecutive years of full time employment in an eligible position as a registered nurse in a state-operated facility, the Commission shall assume, subject to the terms of Section 30925, up to an additional five thousand dollars (\$5,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to twenty thousand dollars (\$20,000) (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of participant).

(e) The term of the loan assumption agreement shall be no more than 10 years from the date signed by the program participant and the Commission unless extended by the Commission in the case of serious illness, pregnancy, other natural causes or a natural disaster.

(f) The loan assumption agreement shall constitute a conditional warrant that may be redeemed with the Commission as specified in Section 30925. A participant in this program shall not receive more than one loan assumption agreement.

(g) The loan assumption agreement shall include the participant's certification that he or she understands:

(1) The consequences of failing to comply with the loan assumption Agreement as specified in section 30926;

(2) The requirements to redeem the conditional warrant as specified in section 30925;

(3) The institution that the participant attends must be eligible for state and federal financial aid;

(4) he or she must respond to all communications and requests from the Commission within ten business days;

(5) he or she must report any change in status that may affect his or her SNAPLE NSF eligibility;

(6) he or she must comply with all laws and regulations applicable to the program; and

(7) If it is determined that a loan assumption payment was authorized based on misleading or incorrect information, he or she will be required to reimburse the Commission.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70120, 70121, 70122, 70123 and 70125, Education Code.

HISTORY

1. New section filed 5–30–2007; operative 5–30–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
2. Amendment redesignating former subsections (b)(A)–(F) as subsections (b)(1)–(6), (c)(A)–(D) as (c)(1)–(4) and (d)(A)–(D) as (d)(1)–(4) and adopting new subsections (g)–(g)(7) filed 6–10–2008; operative 6–10–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30925. Loan Payments.

(a) A program participant may redeem the conditional warrant and the Commission shall make loan payments, as provided in Section 30924(d) and Section 30925(c), when:

(1) the program participant has provided documentation certifying licensure as a registered nurse in California.

(2) the program participant has provided the following employment information for each applicable year of employment subject to the loan assumption agreement:

(A) program participant's name and social security number;

(B) name of eligible registered nurse position;

(C) names and addresses of the program participant's employer(s);

(D) program participant's signature under penalty of perjury under the laws of the State of California.

(3) the program participant has provided the following employment information from his or her employers for each applicable year of employment subject to the loan participation agreement:

(A) statement that the program participant completed a year of work in an eligible position as a registered nurse on a full-time basis in a state-operated facility;

(B) statement that the employer is a state-operated facility;

(C) employer representative's printed or typed name, title, and telephone number;

(D) employer representative's signature under penalty of perjury under the laws of the State of California;

(4) the program participant has provided the following information from each lending institution on the loans subject to the loan assumption agreement (to be eligible for assumption benefits, loan(s) must be disbursed prior to the date of registered nurse license of participant):

(A) program participant's name and social security number;

(B) account number for each loan;

(C) interest rate for each loan;

(D) disbursement date for each loan;

(E) payoff amount for each loan as of June 30;

(F) indication for each loan whether the loan is delinquent or in default;

(G) lending institution/servicer name;

(H) lending institution/servicer eight-digit servicer identification code;

(I) address where payment is to be sent;

(J) a signature of the lending institution official under penalty of perjury under the laws of the State of California;

(K) printed name of the lending institution official;

(L) e-mail address of the lending institution official;

(M) telephone number of the lending institution official;

(5) the Commission has determined that the program participant has satisfied all requirements for payment to be made pursuant to the loan assumption agreement.

(b) Loan payments shall be made by lump-sum payment to the lender, to be applied directly to the principal balance, if not otherwise prohibited by applicable law or by the terms of the loan agreement between the program participant and the lender. Payments shall first be made toward loans with the highest interest rates. The program participant shall continue to make payments as required under the terms of the loans to avoid defaulting on those loans, until notified by the lenders or loan servicers that the loans are paid in full.

(c) The state-operated facility at which the participant is employed must be included on the current list provided to the Commission by the Department of Personnel Administration of facilities with a greater than 10 percent vacancy rate for registered nursing positions as of the date that the participant commences employment at the facility. If the facility is removed from the list after the date the participant commenced employment, the agreement remains valid.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70122, 70123 and 70125, Education Code.

HISTORY

1. New section filed 5-30-2007; operative 5-30-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

2. Amendment of subsection (a), new subsection (a)(2)(B) and subsection relettering filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

§ 30926. Failure to Comply with the Loan Assumption Agreement.

(a) Except as otherwise specified in subsections (b) and (c), a program participant who fails to comply with all requirements for payment under the loan assumption agreement, including failure to complete a minimum

of four consecutive years of full time employment in an eligible position as a registered nurse in a state-operated facility or failure to maintain full-time enrollment or satisfactory academic progress while attending a pre-licensure nursing program, shall be withdrawn from the program and assume full liability for all student loan obligations remaining after the Commission's payment of any loan liability for any year of qualifying registered nursing service.

(b) If a program participant is unable to complete one of the four consecutive years of work as a registered nurse in a state-operated facility, due to serious illness, pregnancy, or other natural causes, the term of the loan assumption agreement shall be extended for a period not to exceed one year. The Commission shall make no further payments under the loan assumption agreement until the applicable work requirements specified have been satisfied. The program participant shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

(c) If a natural disaster prevents a program participant from completing one of the four consecutive years of employment at the state-operated facility, the term of the loan assumption agreement shall be extended for the period of time equal to the period from the date that the participant's employment at the facility temporarily ceased to the date on which the participant resumed employment at the facility. The Commission shall make no further payments under the loan assumption agreement until the applicable work requirements have been satisfied. The program participant, however, shall retain responsibility to continue to make any payments required under the terms of any outstanding loans to avoid defaulting on those loans.

(d) If a program participant self-withdraws or is withdrawn from the program within the award year he or she applies for the program, the Commission will reallocate the award to the next eligible applicant.

NOTE: Authority cited: Section 70125, Education Code. Reference: Sections 70124 and 70125, Education Code.

HISTORY

1. New section filed 5-30-2007; operative 5-30-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

§ 30927. Development of Projections for Funding Purposes.

The Commission shall use program participants' expected dates of graduation and employment start dates to project the funding level required to provide loan payments under the program.

NOTE: Authority cited: Section 70125, Education Code. Reference: Section 70125, Education Code.

HISTORY

1. New section and Attachment A filed 5-30-2007; operative 5-30-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

2. Amendment filed 6-10-2008; operative 6-10-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 24).

ATTACHMENT A

List of Approved Positions for the State Nursing Assumption Program of Loans for Education for Nurses in State Facilities

Nurse-Anesthetist, Correctional Facility

Nurse Practitioner

Nurse-Practitioner, Correctional Facility

Nurse Practitioner, Departments of Mental Health & Developmental Services

Nurse Practitioner, Safety

Registered Nurse

Registered Nurse, Correctional Facility

Registered Nurse, Safety

Surgical Nurse I

Surgical Nurse I, Correctional Facility

Surgical Nurse II, Correctional Facility

Surgical Nurse I, Departments of Mental Health & Developmental Services

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Division 4.5. ScholarShare Investment Board

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Division 4.5. ScholarShare Investment Board

Chapter 1. Golden State Scholarshare Trust Program

§ 30950. Scholarshare Trust Definitions.

(a) Existing Definitions. The following terms, as used in these regulations, are defined in Section 69980 of the Education Code: Act; administrative fund; benefits; Board; Golden State Scholarshare Trust; Scholarshare trust; participant; participation agreement; program administrator; program fund; tuition and fees.

The following terms, as used in these regulations, are defined in the Internal Revenue Code Section 529 of 1986, as amended. (26 U.S.C. Sec. 529): designated beneficiary; eligible educational institution; member of the family; qualified higher education expenses; qualified tuition program; scholarship.

(b) Additional Definitions. The following definitions shall also apply to the Golden State Scholarshare Trust Program:

Account—means an account established under the Act.

Account owner—means the “participant” as defined in Section 69980 of the Education Code. An account owner who is an individual (other than an individual who is a custodian under the California Uniform Transfers to Minors Act) is specifically referred to in these regulations as an “individual account owner.” An account owner who is a custodian under the California Uniform Transfers to Minors Act is specifically referred to in these regulations as a “custodial account owner.” An account owner that is a trust, estate, partnership, association, company or corporation, or a state or local government agency, is specifically referred to in these regulations as an “entity account owner.” Account owner includes the legal representative of an account owner.

Annual Report—means a statement meeting the requirements of Section 69990 of the Education Code.

Business day—means any day that the New York Stock Exchange (NYSE) is open. The close of a business day is the time that the NYSE closes for that day.

California Uniform Transfers to Minors Act—means the act by that name that is contained in Part 9 (commencing with Section 3900) of Division 4 of the California Probate Code.

Cash—shall include but not be limited to checks (except for travelers checks, third-party checks exceeding \$10,000, money orders, or cashier’s checks), rollover distributions, payroll deduction, automatic contribution plan, and electronic funds transfers. Cash does not include property.

Contribution—means cash deposited into an account.

Distributee—means the designated beneficiary or the account owner who receives or is treated as receiving a distribution from the Scholarshare trust.

Distribution—means any disbursement from an account.

Earnings—means the total account balance on a particular date minus the contributions in the account as of that date.

Internal Revenue Code—means the Internal Revenue Code of 1986, as amended.

Legal representative of an account owner—means an individual, trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act or a state or local government agency empowered by law to act for or on behalf of an account owner who has entered into a participation agreement pursuant to the Act. A legal representative of an account owner shall provide to the program administrator’s designee a document establishing the authority of the legal representative to so act that is signed by the account owner, or a court order establishing the authority of the legal representative to

so act. The document or court order must be dated within sixty (60) days of receipt by the Scholarshare trust. The program administrator’s designee shall rely conclusively upon the document or court order until the earlier of its stated expiration date or the date of receipt by the program administrator’s designee of a document or court order terminating the authority evidenced thereby. The legal representative of an account owner shall be deemed to be acting for or on behalf of the account owner in the account owner’s legal capacity.

Non-qualified distribution—means any distribution from an account other than 1) a qualified distribution; or 2) a withdrawal by reason of the death or disability of the designated beneficiary of the account or a scholarship received by the designated beneficiary to the extent that the amount distributed does not exceed the amount of the scholarship, all as provided in Section 30954(d); or 3) a rollover distribution.

Qualified distribution—means a distribution from an account to pay qualified higher education expenses of the designated beneficiary.

Qualified Scholarship Account—means an account opened by an entity account owner to which amounts contributed, and any earnings thereon, are intended to be excluded from the gross income of the scholarship recipient under Section 117 of the Internal Revenue Code.

Qualified Scholarship Account Distribution—means a distribution from a Qualified Scholarship Account to pay for qualified tuition and related expenses within the meaning of Section 117 of the Internal Revenue Code.

Rollover distribution—means a distribution or transfer from an account for a current designated beneficiary that is transferred or deposited within sixty (60) days of the distribution into an account for another designated beneficiary who is a member of the family of the current designated beneficiary. A distribution is not a rollover distribution unless there is a change of designated beneficiary except that a change of designated beneficiary is not required for a distribution or transfer that occurs between qualified tuition programs, provided that such a distribution or transfer cannot occur more than once within a twelve-month period from the date of a previous distribution or transfer by the account owner for the same designated beneficiary. For rollover distributions that involve a change of designated beneficiary, the newly designated beneficiary’s account may be an account established under the Act or established within another qualified tuition program and the account owner must certify in the written request for the rollover distribution that the new beneficiary is a member of the family of the current beneficiary. If the rollover distribution is by a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2), the newly designated beneficiary can not be a member of the family of the current designated beneficiary and the account owner must so certify in the written request.

State or local government agency—means a state or local government (or an agency or instrumentality thereof) as those terms are used in Section 529(e) of the Internal Revenue Code.

Substantiation—means a document submitted by an entity account owner to the Scholarshare trust in one of the following forms and dated no more than sixty (60) days prior to its receipt by the Scholarshare trust:

(1) a corporate by-law extract or corporate resolution certified by an officer of the corporation (other than an individual authorized thereby to act as signer for the corporation’s account), with raised seal if in use by the corporation;

(2) a certificate signed by the owner of a sole proprietorship;

(3) a certificate signed by a general partner of a partnership (other than an individual authorized by the certificate to act as signer for the partnership’s account);

(4) a certificate signed by an officer of a limited liability company, other company or association (other than an individual authorized by the certificate to act as signer for the account of the limited liability company, other company or association);

(5) a certificate signed by the chief executive officer of a state or local government agency;

(6) a certified copy of a court order establishing an estate and naming a legal representative of the estate that is authorized to act as a signer for the account of the estate;

(7) a certificate signed by the trustee of a trust, a court order, or a certified copy of the portions of a trust instrument, that confirms the creation of the trust and the identity of the trustee, and provides authorization for the trustee to act as a signer for the account of the trust;

(8) a letter or memorandum from the Internal Revenue Service indicating that the entity is an organization described in Section 501(c)(3) of the Internal Revenue code;

(9) an original memorandum exhibiting the appropriate letterhead and containing the holographic signature of (a) the chief executive officer of a corporation or limited liability company; (b) the general partner of a partnership; (c) the owner of a sole proprietorship; or (d) the chief executive officer of a state or local government agency; or

(10) if the entity account owner is unable to provide substantiation in any of the foregoing forms, the entity account owner may propose an alternate form of substantiation to the program administrator's designee for consideration. The program administrator's designee must review the alternate form of substantiation for authenticity and completeness and must accept or reject it. If judged authentic and complete, the program administrator's designee must act on the alternate form of substantiation within thirty (30) business days of so determining. If judged inauthentic or incomplete, the program administrator's designee must notify the account owner of the rejection of the alternate form of substantiation and set forth the reason for such determination in writing within thirty (30) business days of so determining.

(c) Electronic Communications.

(1) A "written notification", a "written request", or "written" as used in this Chapter 1 may include an electronic communication containing an electronic signature that is acceptable under California or federal electronic signature laws.

(2) A "dated original signature", or "signed" as used in this Chapter 1, shall include signatures acceptable under California or federal electronic signature laws.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69980, 69983(a), (e) and (h), Education Code; Section 24306(c)(A), Revenue and Taxation Code; Sections 3900–3925, Probate Code; and Sections 117(b), 152(a), 501(c)(3) and 529(b) and (c), Internal Revenue Code.

HISTORY

1. New article 17 (sections 30950–30957) and section filed 6–3–99 as an emergency pursuant to Education Code 69993.5; operative 6–28–99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2–23–2000 or emergency language will be repealed by operation of law on the following day.
2. New article 17 (sections 30950–30958) and section refiled 12–30–99 as an emergency pursuant to Education Code section 69993.5, including amendment of section and NOTE; operative 12–26–99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4–24–2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–30–99 order, including new division 4.5 heading, redesignation of former division 4, chapter 1, article 17 to division 4.5, chapter 1, and amendment of section and NOTE, transmitted to OAL 4–21–2000 and filed 6–1–2000 (Register 2000, No. 22).
4. Amendment filed 6–26–2000 as an emergency pursuant to Education Code section 69993.5; operative 7–1–2000 (Register 2000, No. 26). A Certificate of Compliance must be transmitted to OAL by 12–28–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section and NOTE filed 12–26–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7–2–2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 12–26–2000 order, including further amendment of subsection (b) — definition of "substantiation" part (10), transmitted to OAL 5–22–2001 and filed 7–5–2001 (Register 2001, No. 27).
7. Amendment of section and NOTE filed 12–18–2001 as an emergency; operative 1–1–2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7–1–2002 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction of HISTORY 7 (Register 2002, No. 21).
9. Editorial correction of HISTORY 7 (Register 2002, No. 31).

10. Reinstatement of section as it existed prior to 12–18–2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).

11. Amendment of section and NOTE filed 7–31–2002 as an emergency; operative 7–31–2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12–2–2002 or emergency language will be repealed by operation of law on the following day.

12. Certificate of Compliance as to 7–31–2002 order transmitted to OAL 11–13–2002 and filed 12–5–2002 (Register 2002, No. 49).

13. Amendment of subsection (b) filed 12–1–2003; operative 1–1–2004 (Register 2003, No. 49).

§ 30951. Opening Accounts.

(a) Individual Account Owner. Any individual who has either reached the age of majority or who is an emancipated minor and who has provided the program administrator's designee with a certified court decree of emancipation and who meets other federal and state legal requirements governing the program, shall be eligible to establish an account.

(b) Other Account Owners. A trust, estate, partnership, association, company or corporation, a custodian under the California Uniform Transfers to Minors Act, or a state or local government agency which meets the federal and state legal requirements governing the program shall be eligible to establish an account.

(c) Participation Agreement. An eligible account owner must submit a completed and signed participation agreement with either an initial contribution or a selection of electronic funds transfer, automatic contribution plan, payroll deduction (if available), or rollover distribution (if available) as the method of initial contribution to the program administrator's designee.

(d) Participation Agreement Submitted By Entity Account Owner. In satisfying the requirements of paragraph (c) of this Section, an entity account owner must attach to the completed application portion of the participation agreement substantiation as to: (1) the legal status of the entity; (2) authorization by the entity to open the account; and (3) the authority of the signer to open the account and conduct transactions in the account.

(e) Number of Account Owners and Beneficiaries Per Account. Only one account owner and one designated beneficiary is permitted per account, except that state and local government agencies and entities described in Section 501(c)(3) of the Internal Revenue Code that are opening the account as part of a scholarship program can open a qualified scholarship account for the benefit of designated beneficiaries to be named when the scholarships are awarded. An account owner may be an account owner for more than one account provided the designated beneficiary of each account is different. An individual may be the designated beneficiary on more than one account provided the account owner of each account is different.

(f) Cancelling Participation Agreements. Any account owner may cancel a participation agreement at will by submitting written notification to the program administrator's designee. A participation agreement is deemed cancelled when the account owner requests a non-qualified distribution to remove all funds from the account so that the balance in the account is reduced to zero.

NOTE: Authority cited: Sections 69981(c)(7) and (d) and 69982(h), Education Code. Reference: Sections 69985, 69986 and 69990(a), Education Code; and Sections 501(c)(3) and 529(b)(4), Internal Revenue Code.

HISTORY

1. New section filed 6–3–99 as an emergency pursuant to Education Code 69993.5; operative 6–28–99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2–23–2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–30–99 as an emergency pursuant to Education Code section 69993.5, including amendment of subsection (b); operative 12–26–99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4–24–2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–30–99 order transmitted to OAL 4–21–2000 and filed 6–1–2000 (Register 2000, No. 22).
4. Amendment of section heading, section and NOTE filed 12–26–2000 as an emergency; operative 1–1–2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7–2–2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Amendment of section and NOTE filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Amendment of section and NOTE filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30951.1. Custodial Account Registration.

(a) Notice of Change in Custodial Account Registration. The program administrator's designee shall change the registration of a custodial account upon receipt of written notification from the custodial account owner that the designated beneficiary has reached the age of majority or is otherwise legally authorized to assume ownership. The change in account registration shall not be effective until the designated beneficiary has submitted a completed participation agreement to the program administrator's designee.

(b) Extension of Custodianship Past Designated Beneficiary's Reaching Age of Majority. If the custodianship of the custodial account is extended pursuant to Section 3920.5 of the California Uniform Transfers to Minors Act to a time past the designated beneficiary's reaching the age of majority, the change in account registration will only be effective if: (1) the custodian provides written notification to the program administrator's designee of the termination of the custodianship at such later time; and (2) the designated beneficiary submits a completed participation agreement to the program administrator's designee.

NOTE: Authority cited: Sections 69981(c)(7), 69981(d) and 69982(h), Education Code; Reference: Sections 69986 and 69990(a), Education Code; Sections 3920 and 3920.5, Probate Code; and Section 529(b)(4), Internal Revenue Code.

HISTORY

1. New section filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
3. Amendment filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Editorial correction of HISTORY 3 (Register 2002, No. 31).
6. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
7. Amendment filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30952. Change of Designated Beneficiary.

(a) Change of Designated Beneficiary. An account owner (other than a custodial account owner) may change the designated beneficiary designated for the account at any time by submitting a written request to the program administrator's designee. The written request shall contain a certification by the account owner that the newly designated beneficiary is a member of the family of the current designated beneficiary (unless the account owner is a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) in which case the account owner must certify that

the newly designated beneficiary is not a member of the family of the current designated beneficiary). The written request shall also contain a dated original signature of an individual account owner or the dated original signature of the authorized signer for an entity account owner. An entity account owner shall also attach to the written request substantiation that the entity account owner authorizes the change of beneficiary and that the signer of the written request is authorized to conduct the transaction.

(b) Change of Designated Beneficiary Through Rollover Distribution. A change of designated beneficiary may also be accomplished by means of a rollover distribution by an account owner (other than a custodial account owner).

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code; Reference: Sections 69980, 69983(e) and (f), Education Code; and Sections 529(b)(7), (c)(3)(C) and (e)(2), Internal Revenue Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5; operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-30-99 order transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Amendment of section heading, section and NOTE filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Amendment of section heading, section and NOTE filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30953. Application of Cancellation Penalty and Limitation of Contributions.

(a) Excess Contribution. The program administrator or his or her designee shall warn account owners against excess contributions.

(b) Return of Excess Contributions. Contributions for any designated beneficiary shall be rejected and returned to the extent that the amount of the contribution would cause the aggregate amount held for that beneficiary to exceed the applicable maximum account balance limit, as determined in accordance with Section 529 of the Internal Revenue Code. Accounts that have reached the maximum account balance limit may continue to accrue earnings.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code; Reference: Sections 69981(d), 69982(j), 69983(g), 69985 and 69986(b), (d) and (e), Education Code; Sections 3900-3925, Probate Code; and Sections 529(b)(3) and (7), Internal Revenue Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5, including amendment of subsection (b); operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-30-99 order, including amendment of subsections (a) and (c), transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment of section and NOTE filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Amendment of section heading, section and NOTE filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 6993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Amendment of section heading, section and NOTE filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).
12. Repealer of subsection (a), subsection relettering and amendment of newly designated subsection (b) filed 12-1-2003; operative 1-1-2004 (Register 2003, No. 49).

§ 30954. Distributions.

(a) Generally. An account owner may request a distribution by submitting a written request to the program administrator's designee.

(b) Distributions Requested By Custodial Account Owners. A custodial account owner must provide with the written request for any distribution under this Section a certification that the account owner is the custodian of the account and (except with respect to a qualified distribution or a distribution due to the death of the designated beneficiary) that the distribution is authorized under the California Uniform Transfers to Minors Act and is necessary for the welfare of the designated beneficiary.

(c) Distributions Requested By Entity Account Owners. An entity account owner must provide with the written request for any distributions under this Section substantiation that the distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction.

(d) Non-qualified Distribution. An account owner may request a non-qualified distribution by submitting a written request to the program administrator's designee. The program administrator or his or her designee shall pay the amount of the requested non-qualified distribution to the account owner.

(e) Distributions Due to Death, Disability or Scholarship of Designated Beneficiary. An account owner may request a distribution due to the death or disability of, or scholarship awarded to the designated beneficiary by submitting a written request to the program administrator's designee.

(f) Thirty (30) Day Waiting Period. No distributions can be made within thirty (30) days of receipt by the program administrator's designee of a written request to change the account owner or a request to change the mailing address of the account owner, unless the current account owner's signature is signature guaranteed on the request.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69983(a), 69985(b) and (c) and 69986(b), Education Code; Section 3914, Probate Code; and Section 529(e)(2)(B), Internal Revenue Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5, including amendment of subsections (c)(2)(B)-(C); operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 12-30-99 order, including amendment of subsections (b), (c)(2)(B) and (d), transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment of section and NOTE filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Amendment of subsections (d) and (e) and repealer of subsections (e)(1)-(e)(2)(C) filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 6993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Amendment of subsections (d) and (e) and repealer of subsections (e)(1)-(e)(2)(C) filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).
12. Amendment of subsection (d) filed 12-1-2003; operative 1-1-2004 (Register 2003, No. 49).

§ 30955. Change of Account Ownership.

(a) Change of Account Ownership by Individual Account Owner. An individual account owner may transfer ownership of an account to another eligible account owner at any time. The change of ownership shall be effective if the transfer is (1) irrevocable; (2) transfers all ownership, reversionary rights, and powers of appointments (i.e., power to change designated beneficiaries and to direct distributions from the account); and (3) is submitted to the program administrator's designee in writing.

(b) Change of Account Ownership by Entity Account Owner. An entity account owner may transfer ownership of an account to another eligible account owner at any time by submitting a written request to the program administrator's designee with substantiation that the change of ownership is authorized by the entity and that the signer of the request is authorized to conduct the transaction. The change of ownership shall not be effective until the successor account owner has submitted a completed and signed participation agreement to the program administrator's designee.

(c) Change of Account Ownership by Custodial Account Owner Prohibited. A custodial account owner is not permitted to transfer ownership of a custodial account.

(d) Contingent Account Owner. An individual account owner (but not an entity or custodial account owner) may designate another individual as a contingent account owner to become the owner of the account automatically upon the death of the individual account owner by submitting a written request to the program administrator's designee. The contingent account owner designation may be revoked by the individual account owner at any time by submitting to the program administrator another written request that either designates a new contingent account owner or revokes all previous designation(s) of a contingent account owner. Upon the death of the individual account owner who has in effect a designation of a contingent account owner, the assets of the account shall not be deemed assets of the estate of such deceased account owner for any purpose. The change of ownership shall not be effective until the successor account owner has submitted to the program administrator's designee a certified copy of a death certificate sufficiently identifying the deceased by name and Social Security number, or such other proof of death as is recognized under applicable law and is acceptable to the program administrator, and a completed participation agreement signed by the successor account owner.

(e) Court Order. A change in owner of an account may be effected by submitting to the program administrator's designee a written request that is not signed by the account owner of record if the change of account ownership is accompanied by a court order directing the change of own-

ership or by an affidavit or declaration that is recognized under applicable law to require the transfer of ownership upon death without a court order. The program administrator's designee shall not implement a change in ownership (other than a change in ownership described in paragraph (d) of this Section) without first receiving a written request signed by the account owner of record, a court order, or an affidavit or declaration as herein described. The successor account owner must submit a completed and signed participation agreement to the program administrator's designee.

NOTE: Authority cited: Sections 69981(d), 69982(h) and 69993.5, Education Code. Reference: Section 69986(h), Education Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5, including new subsections (b) and (c) and amendment of NOTE: operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-30-99 order, including amendment of section, transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-26-2000 order, including further amendment of subsection (d), transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Amendment of subsection (a) filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Amendment of subsection (a) filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30956. Account Information.

(a) Annual Report. The account owner shall be mailed an annual report on or before March 1st of each year following the calendar year in which the account was initially opened.

(b) Account Information for Distributee. A distributee shall be mailed a statement of earnings, on or before January 31st of the year following the calendar year in which the distribution was made.

(c) Demographic Information. The program administrator or his or her designee may request, gather, and maintain demographic information regarding account owners and designated beneficiaries in the Scholarshare program, such as gender, ethnicity, geographic location, language, and general income level, in order to improve the administration of, and services provided by, the Scholarshare trust program. Such information may be voluntarily provided by the account owner in a manner approved by the program administrator.

(d) Information Security. Any information compiled pursuant to this Section shall be maintained by the Board and protected consistent with the requirements of the Information Practices Act of 1977. (Civil Code Section 1798, et seq.)

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69982(a)-(j), 69990(c)(1) and 69994, Education Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5, including amendment of subsections (c) and (d); operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-30-99 order, including amendment of subsections (c)(1) and (e), transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment of subsections (c), (d) and (e) filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
6. Repealer of subsections (c)-(c)(3), subsection relettering and amendment of newly designated subsection (d) filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
7. Editorial correction of HISTORY 6 (Register 2002, No. 21).
8. Editorial correction of HISTORY 6 (Register 2002, No. 31).
9. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
10. Repealer of subsections (c)-(c)(3), subsection relettering and amendment of newly designated subsection (d) filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30957. Dispute Resolution.

(a) Optional Pre-Arbitration Procedure. In the event a controversy or claim arises out of or relates to a participation agreement, the account owner or designated beneficiary may elect to discuss the matter informally with the program administrator or his or her designee. If the dispute is not resolved to the satisfaction of the account owner or designated beneficiary, the account owner or designated beneficiary may send a letter explaining the dispute to the Executive Director of the ScholarShare Investment Board. The Executive Director or his or her designee shall meet in person or by telephone with the account owner or designated beneficiary within ten (10) working days of receipt of the letter from the account owner or designated beneficiary or such longer period as may be mutually acceptable, and the Executive Director or his or her designee shall mail a written decision, and the reasons therefor, to the account owner or designated beneficiary within twenty (20) working days of the meeting. The procedure set forth in this paragraph is not a substitute for mandatory arbitration, which is required by paragraph (b) below. The procedure set forth in this paragraph is an informal process that may resolve controversies and claims and make arbitration unnecessary.

(b) Arbitration Mandatory. Any controversy or claim arising out of or relating to any participation agreement, or the breach, termination or validity thereof, shall be settled by arbitration administered by the American Arbitration Association, and judgement on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

(c) Arbitration Clause and Disclosure. Every participation agreement shall include the following arbitration clause and disclosure language. The arbitration clause and the disclosure language shall be underlined or printed in bold face type.

Any controversy or claim arising out of or relating to this participation agreement, or the breach, termination or validity thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

The foregoing is a predispute arbitration clause. By signing an arbitration agreement, the parties agree as follows:

(1) All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the American Arbitration Association.

(2) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is limited.

(3) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(4) The arbitrators do not have to explain the reason(s) for their award.

(5) The rules of the American Arbitration Association may impose time limits for bringing a claim in arbitration.

(d) Predispute Arbitration Clause Disclosure. Immediately preceding the signature line on the participation agreement there shall be a statement, which shall be highlighted, that the agreement contains a predispute arbitration clause. The statement shall also indicate at what page and paragraph the arbitration clause is located.

(e) Copy of Agreement to Account Owner. Upon request by an account owner, the program administrator or his or her designee shall provide the account owner with a copy of the participation agreement executed by the account owner, within ten (10) business days of receipt of the account owner's request.

(f) Information Upon Request. Upon request by an account owner, the program administrator or his or her designee shall provide the account owner with information on how to contact or obtain the rules of the American Arbitration Association.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69981(c) and 69990(d), Education Code.

HISTORY

1. New section filed 6-3-99 as an emergency pursuant to Education Code 69993.5; operative 6-28-99 (Register 99, No. 23). A Certificate of Compliance must be transmitted to OAL by 2-23-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12-30-99 as an emergency pursuant to Education Code section 69993.5, including amendment of subsection (c)(2); operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-30-99 order, including amendment of subsection (a), transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
4. Amendment of subsection (a) filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
5. Editorial correction of HISTORY 4 (Register 2002, No. 21).
6. Editorial correction of HISTORY 4 (Register 2002, No. 31).
7. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
8. Amendment of subsection (a) filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).

§ 30958. Rollover Distributions.

(a) Rollover Distribution From Another Qualified Tuition Program. An account owner (other than a custodial account owner) may make a rollover distribution at any time from another qualified tuition program to an account, either owned by the same or a different account owner, by submitting a written request to the program administrator's designee and by complying with applicable federal and state law governing this transaction. The rollover distribution shall be effective provided that the transfer of funds does not cause the aggregate amount of contributions held for the new designated beneficiary to exceed the maximum account balance limit applicable to that beneficiary.

(b) Rollover of Account Funds Methods. A rollover of account funds from another qualified tuition program shall be effective through a direct transfer of funds from the other qualified tuition program to an account, or as a deposit of the funds by the account owner into an account within 60 days of withdrawal of the funds from the other qualified tuition program. Both the direct transfer of funds and the deposit of funds by the account owner must be accompanied by a written statement from the other

qualified tuition program that identifies the portion of the amount directly transferred, or deposited, that represents contributions and the portion of the amount that represents earnings.

(c) Limitation of Rollover of Account Funds to Savings Program. A rollover distribution from another qualified tuition program shall not be accepted unless the funds are transferred from a tuition savings account as defined in Section 529(b)(1)(A)(ii) of the Internal Revenue Code.

(d) Transfer of Account Funds as Rollover Distribution. An account owner (other than a custodial account owner) may transfer funds from an account to another account either owned by the same or a different account owner at any time by submitting a written request to the program administrator's designee. The transfer of account funds shall be effective provided that: (1) the funds are transferred to an account for a new designated beneficiary who is a member of the family of the designated beneficiary of the account from which the funds are being transferred and the account owner so certifies in the written request (unless the entity making the rollover distribution is a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) in which case the account owner must certify that the newly designated beneficiary is not a member of the family of the current beneficiary); and (2) the transfer of funds does not cause the aggregate amount of contributions held for the new designated beneficiary to exceed the maximum account balance limit applicable to that beneficiary.

(e) Execution of New Participation Agreement. Any rollover distribution that is intended to transfer funds to a new account not yet established under the Act shall not be effective until the account owner who is to receive the transferred funds has submitted to the program administrator's designee a completed and signed participation agreement for the new account and the account has been established.

(f) Rollover Distribution to Another Qualified State Tuition Program. An account owner (other than a custodial account owner) may make a rollover distribution at any time from an account to another qualified tuition program by submitting a written request to the program administrator's designee and by complying with applicable federal and state law governing this transaction.

(1) The program administrator's designee shall treat the rollover distribution as a non-qualified distribution unless the program administrator's designee receives confirmation that the amount of the distribution has been deposited in another qualified tuition program within sixty (60) days of distribution from the account.

(g) Rollover Distributions Requested By Entity Account Owners. An entity account owner must provide with the written request for a rollover distribution substantiation that the rollover distribution is authorized by the entity and that the signer of the written request is authorized to conduct the transaction.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69982(j)(1), 69983(f) and 69986(h), Education Code; Section 24306(c)(4)(A) and (B) Revenue and Taxation Code; and Sections 152(a), 529(b)(1)(A)(ii) and (c)(3)(C), Internal Revenue Code.

HISTORY

1. New section filed 12-30-99 as an emergency pursuant to Education Code section 69993.5; operative 12-26-99 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 4-24-2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-30-99 order, including amendment of subsections (a) and (d), transmitted to OAL 4-21-2000 and filed 6-1-2000 (Register 2000, No. 22).
3. Amendment of section and NOTE filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 12-26-2000 order transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).
5. Amendment filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of HISTORY 5 (Register 2002, No. 21).
7. Editorial correction of HISTORY 5 (Register 2002, No. 31).

8. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
9. Amendment filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).
11. Amendment of subsections (a) and (d) filed 12-1-2003; operative 1-1-2004 (Register 2003, No. 49).

§ 30959. Qualified Scholarship Accounts.

(a) Opening Qualified Scholarship Accounts. A qualified scholarship account may be opened by any of the following entities:

(1) a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code that has opened the qualified scholarship account as part of a scholarship program for the benefit of beneficiaries to be named when the scholarships are awarded; or

(2) any entity identified in Section 30951(b) that has opened the qualified scholarship account for the benefit of a named beneficiary.

(b) Participation Agreement. To open a qualified scholarship account, an entity account owner must submit a completed and signed participation agreement with either an initial contribution or a selection of electronic funds transfer, automatic contribution plan, or rollover distribution as the method of initial contribution to the program administrator's designee.

(c) Change of Beneficiary for Qualified Scholarship Account. An entity identified in paragraph (a)(2) of this Section, except a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code, is not permitted to change the beneficiary of the qualified scholarship account. A state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) may change the beneficiary of a qualified scholarship account at any time by submitting a written request to the program administrator's designee.

(d) Rollover Distributions for Qualified Scholarship Account. An entity identified in paragraph (a)(2) of this Section, except for a state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code, is not permitted to make a rollover distribution. A state or local government agency or an entity described in Section 501(c)(3) of the Internal Revenue Code and identified in Section 30959(a)(2) may make any rollover distribution set forth in Section 30958 at any time by submitting a written request to the program administrator's designee with substantiation that the rollover distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction, and by complying with applicable federal and state law. The written request for a rollover distribution must contain a certification that the newly designated beneficiary is not a member of the family of the previous beneficiary.

(e) Qualified Scholarship Account Distribution. A qualified scholarship account distribution may be taken at any time by an entity identified in paragraph (a) of this Section by submitting a written request to the program administrator's designee with substantiation that the qualified scholarship account distribution is authorized by the entity account owner and that the signer of the request is authorized to conduct the transaction. A qualified scholarship account distribution must be paid directly to an eligible educational institution.

NOTE: Authority cited: Sections 69981(d) and 69982(h), Education Code. Reference: Sections 69982(j)(1), 69983(f), 69986(h); and Sections 117(b) and 529, Internal Revenue Code.

HISTORY

1. New section filed 12-26-2000 as an emergency; operative 1-1-2001 (Register 2000, No. 52). A Certificate of Compliance must be transmitted to OAL by 7-2-2001 pursuant to Education Code section 6993.5 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-26-2000 order, including amendment of subsection (d), transmitted to OAL 5-22-2001 and filed 7-5-2001 (Register 2001, No. 27).

3. Amendment of subsections (b)-(c) filed 12-18-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 51). Pursuant to Education Code section 69993.5, a Certificate of Compliance must be transmitted to OAL by 7-1-2002 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Editorial correction of HISTORY 3 (Register 2002, No. 31).
6. Reinstatement of section as it existed prior to 12-18-2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2002, No. 31).
7. Amendment of subsections (b)-(c) filed 7-31-2002 as an emergency; operative 7-31-2002 (Register 2002, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-2-2002 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 7-31-2002 order transmitted to OAL 11-13-2002 and filed 12-5-2002 (Register 2002, No. 49).
9. Repealer of subsection (d) and subsection relettering filed 12-1-2003; operative 1-1-2004 (Register 2003, No. 49).

Chapter 2. Governor's Scholarship Programs

§ 31000. Definitions Applicable to Governor's Scholarship Programs.

(a) Definitions. The following definitions shall apply within this Chapter:

(1) *Account* means the formal record of transactions consistent with Section 529 of the Internal Revenue Code.

(2) *Account owner* means the State of California acting pursuant to Education Code Section 69995, *et seq.* as owner of qualified scholarship accounts for award recipients.

(3) *Award notification letter* means the letter delivered to a pupil through his or her school which provides: (1) notice of and instructions for claiming a Governor's Scholars Award; (2) identification of an Internet site to use to claim the award; and (3) a unique identifying number to the pupil.

(4) *Award recipient* means a pupil who has been identified as the recipient of a scholarship award defined in Education Code Section 69997 or 69998 and who has successfully claimed at least one scholarship award.

(5) *Claim* means the submission of information by a pupil or award recipient in accordance with Section 31001 of this Chapter, to establish his or her identity as the recipient of a scholarship award.

(6) *Pupil* means a student who has been identified as the recipient of a scholarship award defined in Education Code Section 69997 who has not yet successfully claimed at least one such award.

(7) *Qualified scholarship account* means an account opened by the account owner for the benefit of award recipients in accordance with Sections 117 and 529 of the Internal Revenue Code.

(8) *Qualified scholarship account distribution* means a withdrawal from the qualified scholarship account in accordance with Sections 117 and 529 of the Internal Revenue Code and is referred to herein as a distribution.

(9) *Scholarship award* means either a Governor's Scholars award defined in Education Code Section 69997 or a Governor's Distinguished Mathematics and Science Scholars award defined in Education Code Section 69998.

(10) *Scholarshare Investment Board's designee* means the entity designated by the Scholarshare Investment Board to invest and manage funds on behalf of the account owner.

(b) A "written notification," "written request" or "written confirmation" may include an electronic notification, electronic request or electronic confirmation containing an electronic signature that is acceptable under California or federal electronic signature laws.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69995(c), Education Code; and Sections 529 and 117(b), Internal Revenue Code.

HISTORY

1. New chapter 2 (sections 31000-31007) and section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education

Code section 69999 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-1-2000 order transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. New subsection (b) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Certificate of Compliance as to 12-27-2001 order, including amendment of section, transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31001. Claiming A Scholarship Award.

(a) Each time a pupil is notified by an award notification letter of that pupil's eligibility for a Governor's Scholars award, or at the point at which an award recipient certifies that he or she has met the requirements for a Governor's Distinguished Mathematics and Science Award, the pupil or award recipient shall provide the Scholarshare Investment Board's designee with the following information to successfully claim the award:

- (1) the pupil's name as it appears on the award notification letter;
- (2) the pupil's birth date;
- (3) the pupil's Social Security number or taxpayer identification number;
- (4) the pupil's mailing address;
- (5) a contact telephone number;
- (6) the unique identifying number assigned to the pupil as set forth in the award notification letter for the Governor's Scholars Award;
- (7) a designation of the type of scholarship award claimed by the pupil or award recipient as either a Governor's Scholars award or a Governor's Distinguished Mathematics and Science Scholars award;
- (8) a certification by the pupil or award recipient that the pupil or award recipient was enrolled in a California public school for at least twelve (12) consecutive months immediately preceding the administration of the achievement test referred to in Education Code Section 69995(d)(1) that was used as the basis for the award(s); and a statement agreeing to provide school records evidencing such attendance if requested by the Scholarshare Investment Board; and

(9) a certification by the award recipient that if claiming a Governor's Distinguished Mathematics and Science Scholars Award, the award recipient has achieved the required scores, pursuant to Education Code Section 69998, on the Advanced Placement (AP) exam authorized by Education Code Section 52241, International Baccalaureate (IB) exam authorized by Education Code Section 52920 or, if applicable, the Golden State Exam (GSE) authorized by Education Code Section 60650.

(b) Upon receipt of a claim for a Governor's Scholars award that contains in a complete manner all of the information set forth in paragraph (a) of this Section, and if all provided information matches information received from the test publisher, the Scholarshare Investment Board's designee shall establish, within thirty (30) days of receipt of such claim, a qualified scholarship account for the award recipient and send a written confirmation to the award recipient.

(c) Upon receipt of a claim for a Governor's Distinguished Mathematics and Science award that contains in a complete manner all of the information set forth in paragraph (a) of this Section with the exception of the unique identifying number, and if the test score information provided by the test publisher matches the test score requirements specified in Sections 69997 and 69998 of Education Code or as modified by the Board of Education pursuant to Section 69998, the Scholarshare Investment Board's designee shall send a written confirmation to the award recipient within thirty (30) days.

(d) Any scholarship award subsequent to the award recipient's first scholarship award that is successfully claimed by the award recipient, shall be maintained by the Scholarshare Investment Board's designee in the same qualified scholarship account first established for the award recipient. The Scholarshare Investment Board's designee shall provide an annual statement of account activity and interest rate to each award recipient.

(e) If the pupil or award recipient provides information that conflicts with information provided by the State of California or the test publisher selected pursuant to Education Code Section 60642, the Scholarshare Investment Board's designee shall reject the claim and inform the pupil or award recipient that the claim cannot be processed. A pupil or award recipient whose claim is so rejected, may resubmit the claim for a scholarship award within the allowable time period specified in paragraph (h) by providing the missing or corrected information.

(f) If, after a qualified scholarship account is established for an award recipient, it is discovered that the information referred to in paragraph (a) of this section as provided by the award recipient contains an error or conflicts with information provided by the State of California or test publisher, the Scholarshare Investment Board or its designee shall require the award recipient to provide sufficient documentation to resolve the error or conflict. If the error or conflict cannot be resolved, the Scholarshare Investment Board may require the award(s) to be forfeited pursuant to Section 31005.

(g) The Scholarshare Investment Board or its designee shall verify the qualifying exam scores of each award recipient claiming a Governor's Distinguished Mathematics and Science Award through the respective publishers of the Advanced Placement exam, International Baccalaureate exam, and, if applicable, Golden State Exam. If the Scholarshare Investment Board's designee is unable to verify the award recipient's scores, the Scholarshare Investment Board's designee shall reject the claim and inform the award recipient that the claim cannot be processed. The award recipient whose claim is so rejected may appeal the rejection pursuant to section 31007. Such an appeal shall include a copy of the award recipient's official score report(s) from the test publisher that indicates a qualifying score.

(h) Each pupil who is eligible to claim a Governor's Scholarship Programs Award shall claim the award by June 30th following the five year anniversary of taking the achievement test referred to in Education Code Section 60640, which was used as the basis for that particular award, or lose eligibility for the award. Any funds not claimed by June 30th following the five year anniversary of taking the achievement test specified in Education Code Section 60640 shall revert to the General Fund.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69997(b), Education Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order, including amendment of subsections (a)(4), (a)(7) and (b), transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. New subsection (a)(5), subsection renumbering and amendment of subsections (c) and (f)-(h) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Editorial correction of subsection (g) (Register 2003, No. 5).
6. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31002. Ownership of Scholarship Award.

(a) The account owner owns all scholarship awards and earnings thereon in qualified scholarship accounts until a qualified distribution is made.

(b) An award recipient's right to claim a scholarship award is not transferable to another individual. An award recipient's right to direct a distribution is not transferable to another individual.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Sections 69996(b) and 69996(c)(1), Education Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).

§ 31003. Accuracy of Information Assumed.

(a) Notwithstanding any other provision in this Chapter, the Scholarshare Investment Board's designee shall rely upon the accuracy of information provided by the pupil or award recipient under Section 31001(a) unless and until it receives actual notice to the contrary from the State of California, the College Board, the International Baccalaureate Program, the test publisher selected pursuant to Section 60642, or other credible source.

(b) Notwithstanding any other provision in this Chapter, the Scholarshare Investment Board and its designee shall rely upon the accuracy of test score information provided by the test publishers for examinations used as the basis for awards. If errors are identified with test score information, the test publisher shall provide corrections to the Scholarshare Investment Board and its designee. These corrections to the erroneous test score information shall be in the same electronic format as the original file.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69996(d), Education Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. Redesignation of and amendment of former section as subsection (a) and new subsection (b) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31004. Distribution of Award.

(a) To request distribution of funds, an award recipient shall submit a written request that provides the following information:

- (1) the award recipient's name as it appears on the annual account statement;
- (2) the award recipient's account number;
- (3) the award recipient's Social Security number or taxpayer identification number;
- (4) the award recipient's mailing address;
- (5) the name and address of the eligible educational institution;
- (6) the academic year for which the distribution is intended;
- (7) the amount of qualified higher education expenses to be paid out by the distribution;

(b) The Scholarshare Investment Board or its designee may require additional documentation prior to the distribution of funds.

(c) A separate written request must be submitted for each distribution.

(d) Distributions shall be made only to eligible educational institutions.

(e) Award recipients shall provide a certification that the distribution shall be used for qualified higher education expenses, that no other request has been submitted previously for payment of the referenced qualified higher education expenses and that any portion of the distribution that is refunded to the award recipient and not used for qualified higher education expenses shall be returned to the Scholarshare Investment Board's designee in the tax year in which the refund was received by the award recipient.

(f) Written requests for distributions shall be processed by the Scholarshare Investment Board's designee within thirty (30) days of receipt of the request or within thirty (30) days of receipt of additional documentation requested by the Scholarshare Investment Board or its designee.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69996(a), Education Code; and Sections 529 and 117(b), Internal Revenue Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order, including amendment of section, transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. Amendment of subsection (e) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Editorial correction of subsection (e) (Register 2003, No. 5).
6. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31005. Forfeiture of Scholarship Award.

(a) The following disqualifying events, if not disproved, will result in forfeiture by the award recipient of the scholarship award:

(1) the award recipient provided false or misleading information in claiming the scholarship award;

(2) the award recipient was wrongly identified as receiving a scholarship award;

(3) one or more of the award recipient's test scores used as the basis for the scholarship award were invalidated; or

(4) the award recipient failed to provide the documentation referred to in paragraph (f) of Section 31001 of this Chapter

(b) The Scholarshare Investment Board shall provide the award recipient with written notice of the disqualifying event which, if not resolved, would result in forfeiture. The written notice shall inform the award recipient that he or she has thirty (30) days from receipt of the notice to resolve the disqualifying event before a final determination of forfeiture is made by the Executive Director of the Scholarshare Investment Board and that funds will not be distributed pending resolution of the disqualifying event. If the award recipient receives an unsatisfactory final determination, the award recipient may appeal the determination pursuant to section 31007(b). Such an appeal shall be submitted within thirty (30) days of receipt of the final determination.

(c) After a final determination of forfeiture has been issued and no appeal has been submitted or the Scholarshare Investment Board has upheld the final determination, the Scholarshare Investment Board shall direct its designee to withdraw the forfeited funds from the respective qualified scholarship account and deposit the funds into a forfeiture account within the Scholarshare Trust.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Sections 69995(d), 69996(d) and 69998, Education Code; and Sections 529 and 117(b), Internal Revenue Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. Amendment of subsections (b) and (c) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31006. Refunds.

(a) If the award recipient receives a refund of any part of the distribution from the eligible educational institution, the award recipient shall notify the Scholarshare Investment Board's designee in writing of such amount and either provide evidence showing that the refunded amount was used for qualified higher education expenses or shall return the amount of the refund not used for qualified higher education expenses to the Scholarshare Investment Board's designee. The Scholarshare Invest-

ment Board's designee shall deposit any returned refunded amounts into the award recipient's account within the Scholarshare Trust.

(b) If the eligible educational institution refunds any part of the award recipient's distribution to the Scholarshare Investment Board's designee, the Scholarshare Investment Board's designee shall deposit any returned refunded amounts into the award recipient's account within the Scholarshare Trust.

(c) If a refund from the eligible educational institution to the award recipient or to the Scholarshare Investment Board's designee is based on a final determination pursuant to Section 31005, the Scholarshare Investment Board's designee shall deposit any returned or refunded amounts into a forfeiture account within the Scholarshare Trust.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69996(d), Education Code; Sections 529 and 117(b), Internal Revenue Code, and 26 Code of Federal Regulations Section 1.529-2(c)(4)(ii)(d).

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order, including amendment of section, transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. Redesignation of existing paragraphs as subsections (a)-(c) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

§ 31007. The Appeals Process.

(a) In the event that a pupil wishes to appeal an adverse decision regarding the determination of his or her eligibility to claim an award, but excluding the scoring of exams, or if a controversy arises out of the administration of an award recipient's account, that pupil or award recipient may discuss the matter informally with the Scholarshare Investment Board staff or designee. If the dispute is not resolved, that pupil or award recipient may appeal the adverse decision. Such an appeal shall be in writing, be mailed to the Scholarshare Investment Board, and shall include a signed and dated letter explaining the dispute and appropriate documentation to support the pupil's position. The Scholarshare Investment Board will mail a written decision including the reason for the decision within thirty (30) days unless SIB notifies the pupil or award recipient of a different timeline.

(b) In the event a pupil or award recipient is not satisfied with the resulting decision, he or she may request that the dispute be reviewed by the Executive Director of the Scholarshare Investment Board. Such a request shall be in writing and shall be received by the Executive Director within thirty (30) days of receipt of the adverse decision. The Executive Director shall mail a written decision, and the reasons therefor, to the award recipient within thirty (30) days of the request for the review or such period as may be mutually acceptable.

(c) In the event that an award recipient wishes to appeal a final determination by the Executive Director, the award recipient may request that the Scholarshare Investment Board review the decision of the Executive Director at a regularly scheduled meeting. Such a request shall be in writing and shall be received by the Scholarshare Investment Board within thirty (30) days of receipt of the adverse decision and at least thirty (30) days in advance of a scheduled meeting of the Scholarshare Investment Board. The pupil or award recipient shall provide supporting documentation that would justify a reconsideration of the Executive Director's decision. The Scholarshare Investment Board shall mail a written decision, and the reasons therefor, to the pupil or award recipient within ninety (90) days of the meeting.

(d) The decision of the Scholarshare Investment Board is the final administrative decision.

(e) For purposes of Section 31007, the terms pupil or award recipient shall include the pupil's or award recipient's parent or legal guardian, if applicable.

NOTE: Authority cited: Sections 69981(d), 69996(d) and 69999, Education Code. Reference: Section 69996(d), Education Code; and Sections 529 and 117(b), Internal Revenue Code.

HISTORY

1. New section filed 12-1-2000 as an emergency; operative 12-1-2000 (Register 2000, No. 48). A Certificate of Compliance must be transmitted to OAL by 11-30-2001 pursuant to Education Code section 69999 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12-1-2000 order, including amendment of section, transmitted to OAL 11-30-2001 and filed 12-21-2001 (Register 2001, No. 51).
3. Amendment of subsections (a)-(c) filed 12-27-2001 as an emergency; operative 1-1-2002 (Register 2001, No. 52). Pursuant to Education Code section 69999, a Certificate of Compliance must be transmitted to OAL by 1-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of HISTORY 3 (Register 2002, No. 21).
5. Certificate of Compliance as to 12-27-2001 order transmitted to OAL 12-18-2002 and filed 1-29-2003 (Register 2003, No. 5).

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